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LEGAL AND HUMAN RIGHTS CAPACITY BUILDING DEPARTMENT

LEGISLATIVE SUPPORT AND NATIONAL HUMAN RIGHTS STRUCTURES DIVISION

National Human Rights Structures Unit

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

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TABLE OF CONTENTS

Introduction

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

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

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

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

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

The preparation of the RSIF is generously supported by funding from the Council of Europe's Human Rights Trust Fund.

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

We invite you to read the INFORMATION NOTE No. 126 (provisional version) on the Court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases that the Jurisconsult, the Section Registrars and the Head of the aforementioned Division examined in January 2010 and sorted out as being of particular interest.

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

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

Marinescu v. Romania (no. 36110/03) (Importance 2) – 2 February 2010 – Violation of Article 3 – Conditions of detention of a judge convicted of receipt of bribes and abuse of office – No violation of Article 6 §§ 1 and 3 (d) – Conviction based on the testimony of witnesses and documentary evidence examined in the light of the applicable legislation on liquidation proceedings did not restrict the applicant's right of defence

At the relevant time the applicant was a judge at the Bihor County Court, specialised in tax reassessment cases and liquidations. In October 2000 two official liquidators lodged a criminal complaint against her for receipt of bribes and abuse of office, accusing the applicant of asking them for money to maintain them in their posts and also of illegally selling the assets of a company in liquidation. During the investigation the prosecution questioned witnesses in the applicant's absence, including S.I., who said that he had been interested in purchasing the company in question. The applicant appeared before the prosecutor to make an initial statement; she was brought face to face with two witnesses in the presence of her lawyers. In May 2001 she was suspended from her judicial duties by order of the Ministry of Justice and charged. She requested the hearing of witnesses and a report by a court-appointed expert, but to no avail. The public prosecutor ordered the applicant's

detention pending trial and issued a general warrant for her arrest when she failed to appear for the presentation of the investigation file. In July 2001 she absconded, complaining that the investigation had been unfair and that the prosecution had brought pressure to bear on her. The applicant was absent throughout the proceedings, where she was represented by her husband and her lawyer. At first instance the injured parties were questioned, together with witnesses for the prosecution and the defence. A sworn statement by witness S.I., who was unable to appear in court, was read out in public and filed. In view of the influence the applicant's husband might have had over the witness, only those parts of S.I.'s statement which agreed with his previous statement to the prosecutor and with the statements of the other witnesses were taken into account. In December 2001 the applicant was sentenced to 11 years' imprisonment for receipt of bribes and abuse of office. Appealing against that judgment, the applicant claimed that the media attention given to her case had affected the judges' impartiality, and complained of procedural irregularities. In a judgment of May 2003 the Supreme Court of Justice dismissed the appeal.

In September 2003 the applicant was placed in a high-security prison. In 2005 she was transferred to Târgşor prison, then to the Movila Vulpii rehabilitation centre in January 2007, and back to Târgşor prison in June 2007. In October 2008 the applicant was released on parole.

The applicant complained about the poor conditions of detention in prison including overcrowding, poor food and poor hygiene, and of a violation of her right to a fair trial, because she had not had an opportunity to question the witness S.I., on the strength of whose statement she had been convicted of abuse of office.

Article 3

The Court rejected the part of the application concerning the conditions of the applicant's detention prior to June 2007 on the grounds that it had been lodged out of time (Article 35 §§ 1 and 4) and examined the conditions of her detention in Târgşor prison from June 2007 onwards. In her cell the applicant had had about 1.89 m^2 and 2 m^2 of living space respectively, some of which was taken up by furniture. The Court also noted that for an unspecified length of time she had had to use outdoor showers. While welcoming the efforts made by the Romanian authorities to improve conditions in prisons and noting that there was no intention on their part to humiliate the applicant, the Court considered that the prison conditions in question, which the applicant had had to endure for about one year and four months, had caused her hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and held unanimously that there had been a violation of Article 3.

Article 6

The Court noted that only part of the sworn statement in which S.I. had answered questions from the applicant's lawyer had been taken into account – the part which corroborated the statement S.I. had made during the investigation and the statements made by the other witnesses. The Court considered that the questioning of S.I. by the applicant's lawyer in such conditions had not given the applicant an "adequate and proper opportunity" to challenge the statement made by the witness during the investigation. However, the applicant's conviction for abuse of office had been based on the testimony of witnesses heard during the trial and the documentary evidence in the file had been examined in the light of the applicable legislation on liquidation proceedings. The applicant's rights of defence had therefore not been restricted in a manner incompatible with the protection afforded by Article 6. The Court held that there had been no violation of Article 6 §§ 1 and 3 (d).

Güvercin v. Turkey (no. 28923/02) (Importance 2) – 2 February 2010 – Violation of Article 3 – Ill-treatment in police custody

In 2001 the applicant was arrested on suspicion of theft. He complained that he had been ill-treated by the police while in custody following his arrest. In the light of the evidence submitted to the attention of the Court, the latter concluded that the injuries on the applicant's body resulted from police misconduct in custody. Taking in consideration the medical reports, the Court held that there had been a violation of Article 3 on account of ill-treatment in detention.

Cemalettin Canli v. Turkey (no. 2) (no. 26235/04) (Importance 3) – 9 February 2010 – Violations of Article 3 (substantive and procedural) – Unjustified use of police force during the arrest of a demonstrator – Lack of an effective investigation

In August 2003 the applicant was arrested and taken into police custody for breaching the Public Meetings and Demonstrations Act while taking part in a demonstration organised by the Confederation of Public-Sector Workers' Unions in Ankara. The police had informed the participants that the demonstration was illegal and had called on them to disperse. Faced with resistance on the part of the demonstrators, the police used force to arrest some of them, including the applicant. Following his

arrest, the applicant was subjected to two medical examinations, which showed that he was suffering from injuries leaving him unfit to work for three days. He was released in August 2003. In November 2003 the applicant lodged a complaint against the police officers who had arrested him, alleging ill-treatment. In December 2003 the prosecutor ruled that there was no case to answer, merely noting that the applicant had taken part in an unauthorised demonstration in the course of which the security forces, faced with the demonstrators' refusal to disperse, had been obliged to use force in accordance with the Public Meetings and Demonstrations Act. An appeal by the applicant against this decision was dismissed by the Sincan Assize Court in February 2004.

Criminal proceedings were also opened against the applicant for breach of the Public Meetings and Demonstrations Act, but he was acquitted by the Ankara Criminal Court in December 2005.

The applicant complained primarily of the ill-treatment inflicted by the police officers during the demonstration and alleged that the investigation against the police officers in question had been ineffective.

The Court noted that it was not disputed by the parties that the police officers had used force when arresting demonstrators, including the applicant. After his arrest, the applicant had undergone medical examinations; the majority of the injuries found could be considered to have resulted from the force used by police officers during the demonstration. The Court was required to consider whether such a measure had been necessary. On this point, however, the Court noted that the Government had not established with certainty the exact circumstances of the applicant's arrest or shown that the force used had been necessary. The violence committed by the security forces had been even less justified given that it was not alleged that the applicant had acted in a violent manner and had thus provoked the forceful intervention on the part of the police officers. The Court then examined whether an effective investigation had been conducted, as required, into the treatment inflicted on the applicant. It noted that the finding that there was no case to answer, which ended the criminal proceedings against the police officers, had referred primarily to the Public Meetings and Demonstrations Act, providing for police intervention during demonstrations, without however examining whether there had been circumstances which might have made necessary the use of force against Mr Canlı. In view of the ill-treatment inflicted on the applicant and the ineffective nature of the investigation in that respect, the Court concluded unanimously that there had been a violation of Article 3.

Salakhutdinov v. Russia (no. 43589/02) (Importance 3) – 11 February 2010 – Two violations of Article 3 – Conditions of detention

The applicant is currently serving a ten year and six month prison sentence in Kazan correctional colony for inflicting severe injuries resulting in death. He complained about the conditions of his detention, notably in Bugulma IZ-16/3 remand centre between January and August 2002 and in Chistopol UE-148/T prison from August 2002 to August 2003. Having regard to its case-law on the subject (see *Mamedova v. Russia*), the material submitted by the parties and the findings above, the Court concluded that, though not ill-intentioned, the detention of the applicant, must have caused him such intense physical discomfort and mental suffering which the Court considered amounted to inhuman treatment within the meaning of Article 3 of the Convention. Accordingly it held that there have been violations of Article 3.

- **Right to liberty and security**

Asatryan v. Armenia (no. 24173/06) (Importance 2) – 9 February 2010 – Violation of Article 5 § 1 (c) – Unlawful extension of detention

The applicant was arrested and taken into custody on 23 September 2005 on suspicion of attempted murder. She complained that she had not been released from custody between 23 November 2005 – when the decision authorising her detention expired – and 24 November 2005 – when the Court of Appeal decided to prolong her detention.

The Court concluded that between 23 November 2005 and the time when the Court of Appeal decided on 24 November 2005 to prolong her detention, the applicant continued to be deprived of her liberty, despite the fact that there was no court decision authorising her detention for that period as required by law. It follows that the applicant's deprivation of liberty during that period was unlawful. Accordingly, there had been a violation of Article 5 § 1 (c).

- **Right to a fair trial / Excessive length of proceedings**

Syngelidis v. Greece (no. 24895/07) (Importance 2) – 11 February 2010 – Violation of Article 6 § 1 – Greek Parliament's unjustified refusal to lift a Member of Parliament's immunity in child custody proceedings

The applicant was married to M.A., a Member of the Greek Parliament. After their marriage broke down in late 2004, the applicant and M.A. concluded an agreement on custody and access in relation to their son, born the same year. The arrangements were endorsed by a court decision in January 2005. The child was to live with his mother and the applicant was entitled to open access and minimum periods and certain days of contact with his son. Two months later, M.A. brought criminal proceedings against the applicant for placing a security guard outside her building. These proceedings were dismissed both at first instance and on appeal.

As the applicant had been unable to have contact with his son in accordance with the court's decision on a number of occasions, he lodged criminal proceedings against M.A. in October 2005, requesting the sum of ten Euros as compensation for the non-pecuniary damage which her breach of the decision had caused him. The Supreme Court's prosecutor eventually referred the matter to the President of the Greek Parliament, seeking to have M.A.'s immunity lifted. In November 2006, the Parliament's Ethics Committee gave the opinion that the request should be denied, stating that one of the grounds provided by the relevant provision of the Parliament's regulations applied, without further specifying. In December 2006 a majority of Parliament refused to lift the immunity, without giving any reasons. In 2007 the applicant lodged two more indictments against M.A. following alleged breaches of a new court decision on custody arrangements, which provided for payment of a fine, should she breach any of its provisions. A request for M.A.'s immunity to be lifted was again referred to the Parliament's Ethics Committee, which rejected it in May 2008 on the grounds that it was essentially the same as the first request.

The applicant complained that the Greek Parliament's refusal to waive his former wife's parliamentary immunity had breached his right of access to a court.

The Court disagreed with the argument brought forward by the Greek Government, that there could not have been a breach of the applicant's right of access to a court, given that there were other legal remedies available than lodging a criminal indictment against his former wife seeking compensation for her allegedly illegal behaviour. The Court reiterated that when the domestic legal order provided an individual with a remedy, the State had a duty to ensure that the person using it enjoyed the fundamental guarantees of Article 6.

The Court further noted that in the light of that Article, the Greek Constitution entitled Parliament to refuse lifting immunity for a prosecution only where the acts on which prosecution was based were clearly connected with parliamentary activity. In the present case, there had been no conceivable link between M.A.'s alleged failure to comply with the custody arrangements with her former husband ordered by the domestic court and her functions as a Member of Parliament. Moreover, the Parliament's Ethics Committee had not specified which of the conditions for a refusal to waive immunity, as provided for by the Parliament's regulations, was met. The absence of any argument showing the reasoning of the Committee made it impossible for the applicant to learn about the basis of the decision. The Court further attached some significance to the fact that the impugned approach of the Parliament had created an imbalance in treatment between the applicant and M.A., since the latter was able to bring criminal proceedings against the applicant. The Court concluded, by six votes to one, that the applicant's right under Article 6 § 1 had been violated.

Kadluczka v. Poland (no. 31438/06) and Krosta v. Poland (no. 36137/04) (Importance 3) – 2 February 2010 – Violations of Article 6 § 1 – Infringement of the right of access to a court due to the lack of judicial review for decisions refusing a Second World War deportee and a deportee's daughter compensation on account of forced labour

During the Second World War both applicants were deported from Poland to Germany where they worked as forced labourers on farms until the liberation in 1945.

Mr Krosta worked on the same farm as his wife and they had a daughter in April 1945. After the end of the war, they registered her as having been born in Poland in May 1945 for fear of any negative consequences of her having been born in Germany.

In the period immediately following the Second World War Poland did not conclude a specific agreement with Germany regarding the issue of reparations. However, following international negotiations from 1998 to 2000, a Joint Statement was adopted which established a compensation scheme for those subjected to slave or forced labour by Nazi Germany. The agreement was incorporated in the German Law of 2 August 2000 on the Creation of the "Remembrance,

Responsibility and Future" Foundation (the "GFA"). Section 10 of the Act stipulated that partner organisations, including the Polish Foundation, were entrusted with evaluation of claims and disbursement of payment to those eligible.

In June and August 2001, respectively, Mr Kadłuczka and Mr Krosta applied to the Polish-German Reconciliation Foundation for compensation on account of their forced labour during the war.

Mr Kadłuczka, eligible for benefits as he belonged to the category of "relocated persons" who had been forced to work on a German farm, claimed before the Foundation that he had worked on a farm in Wadów which had been under German administration. To substantiate his claim he submitted two certificates issued by the Ruszcza Catholic Parish and the Wadów Agricultural Society as well as the resolution concerning the nationalisation of the farm in Wadów. However, the Foundation's Verification Commission, holding that those documents did not duly demonstrate that the applicant had worked on a farm under German administration, refused his claim. The Foundation's Appeal Commission subsequently refused his claim on two more occasions on the same ground.

In July 2004 Mr Krosta was found eligible for benefits and was awarded 1,124.84 Euros. A similar claim made on behalf of his daughter was, however, refused in August 2003. On appeal it was agreed that children born to parents deported to Germany and subjected to forced labour were eligible; however, according to the identity card of the applicant's daughter, she had not been born in Germany but in Poland.

The applicants did not seek judicial review of those decisions as the prevailing position of the domestic courts at the time was that a claim before either an administrative or civil court was excluded. In June 2007 the Supreme Court revisited that practice by adopting a resolution in which it held that claims against the Polish Foundation in respect of Nazi persecution were civil claims in the formal sense, therefore giving the civil courts jurisdiction to examine such claims.

The applicants complained in particular that there was no authority which could have reviewed the Polish-German Reconciliation Foundation's refusal to grant compensation – to Mr Kadłuczka and to Mr Krosta's daughter – for the applicants' forced labour during the war.

Article 6 § 1

The essence of both applicants' complaints was that the Polish Foundation had wrongly assessed the facts underlying their claims resulting in a flawed application of the eligibility conditions to their cases. The Court reiterated that it was clear that the Polish State had no obligation of any kind to redress the wrongs inflicted during the Second World War by another State; its citizens had been victims and not perpetrators. The compensation at issue had been voluntary in the sense that the States had been free to establish the scheme and to determine the scope of its beneficiaries. However, once such a general scheme had been adopted and claimants could reasonably be considered to have complied with the eligibility conditions stipulated in the GFA and in the Foundation's regulations, he or she had a right to be awarded payment by the Foundation. The Court further pointed out that decisions to grant payments in respect of claimants who resided in Poland had been taken, for all practical purposes, by the Polish Foundation, there having been no evidence to show that the German Foundation had been involved in reviewing decisions in the applicants' case.

The Court then ascertained that the Polish Foundation's adjudicating bodies – the Verification Commission and the Appeal Commission – could not be considered tribunals conforming to the requirements of Article 6 § 1. For example, the independence of the Foundation's adjudicating bodies had been open to serious doubt, its members having been appointed and dismissed by the Foundation's management board and/or in consultation with the Foundation's supervisory board. Furthermore, the rules governing the operation of the Foundation's adjudicating bodies had been set out in regulations drafted by the management board and adopted by the supervisory board. Indeed, the members of the Verification Commission and the Appeal Commission had not even had tenure. Lastly, as concerned procedural guarantees, the adjudicating commissions had no clear and publicly available rules of procedure and had not held public hearings. As such, the decisions of the Foundation's adjudicating bodies should have been subject to review by a judicial body having full jurisdiction. However, the Court noted that, until the Supreme Court's Resolution of 27 June 2007, bringing judicial proceedings would obviously have been futile for the applicants as such a possibility had arisen only after they had lodged their applications.

The Court therefore concluded unanimously that the exclusion of judicial review in respect of the decisions given by the Foundation in the applicants' cases had impaired the very essence of their right of access to a court, in violation of Article 6 § 1.

Leandro Da Silva v. Luxembourg (no. 30273/07) (Importance 2) – 11 February 2010 – Violation of Article 6 – Excessive length of administrative proceedings (four years for one level of jurisdiction)

While running a car dealership, the applicant became involved in a substantial dispute with the administrative authorities over the building of a tunnel as an exit route from a supermarket, hindering access to his business. In June 2003 the applicant and his company sued the State and the district council for damages on account of maladministration. The ensuing proceedings lasted four years – for one level of jurisdiction – and the applicant was ultimately unsuccessful. During that period, the parties to the proceedings (the applicant on the one hand, and the State and the district council on the other) caused a large number of delays, in particular by taking a long time to reply to submissions by the opposing party, despite the fact that the judge had on several occasions laid down timetables for them to observe.

The applicant complained that the length of the proceedings in his case had been excessive.

The Court observed firstly that the length of the proceedings had resulted mainly from the conduct of the various parties, namely the applicant, the State and the district council. Indeed, a significant portion of the delay was attributable to the applicant, who had taken one year and four months to reply to the opposing party's submissions of 15 October 2003. The judicial authorities, meanwhile, had not caused any particular delays. However, the Court reiterated that Article 6 § 1 required the Contracting States to organise their legal systems in such a way that their courts could meet each of the requirements of that provision, including the obligation to guarantee anyone the right to a final decision within a reasonable time. Despite the fact that the judge had laid down timetables on several occasions, the proceedings in the applicant's case had lasted four years for a single level of jurisdiction, a period which could not be considered reasonable. The Court held unanimously that there had been a violation of Article 6 § 1.

Saileanu v. Romania (no. 46268/06) (Importance 3) – 2 February 2010 – Violation of Article 6 § 1 – Excessive length of divorce and child custody proceedings (nearly five years)

In 1994, while the applicant was living in the United States, he married a United States national with whom he had two daughters (born in 1998 and in 2000). In September 2001 he left the United States with his elder daughter, with the written consent of his wife. He claimed that his wife was due to join them in Romania with their younger daughter with a view of settling there. Instead, the applicant's wife took their younger daughter to her parents' house, emptied the former flat where she had lived with the applicant and their children. In October 2001 the applicant instituted divorce proceedings in the Bucharest Court of First Instance and sought custody of the children. In January 2004 the court granted the divorce. The application for custody of the children was declared inadmissible on the ground that a request lodged by the applicant's wife (under the Hague Convention on the Civil Aspects of International Child Abduction) for the return of the older daughter to the United States was pending. The applicant appealed. The Bucharest Court of Appeal held hearings in June and October 2004, and then adjourned the case to February 2005. In December 2004, however, the Court of Appeal declined jurisdiction in favour of the Bucharest County Court pursuant to a new set of rules of civil procedure. The Bucharest County Court held hearings in January, May and October 2005. In December 2005 it set aside the judgment of January 2004 on the divorce and custody proceedings, ruling that the Romanian courts did not have jurisdiction to hear the case. That decision, taken pursuant to the Law on private international law relations, was based on the fact that the applicant had married a United States national in that country and that the couple's last joint home had been in the United States. In July 2005 the applicant's wife obtained a divorce decree from a Texan court. In September 2006 the Bucharest Court of Appeal upheld the ruling that the Romanian courts lacked jurisdiction to hear the applicant's case.

The applicant complained that the proceedings concerning his divorce and the custody of his daughters – which had lasted nearly five years – were excessively long. He also complained of the fact that he had been prevented for five years from remarrying and obtaining a final court ruling on the custody of his children.

The Court reiterated that proceedings relating to civil status (as in this case) had to be conducted with special diligence in view of the possible consequences which the excessive length of proceedings might have, notably on enjoyment of the right to respect for family life. The Court noted that in 2004 and 2005, i.e. more than three years after the proceedings had been instituted, the Bucharest Court of Appeal and the Bucharest County Court, to which the case had been referred following a decision declining jurisdiction, had held only three hearings per year. During that period the case had been adjourned for procedural reasons and the hearing dates had been scheduled at intervals of approximately five months. The length of the proceedings was particularly excessive given that the only legal question that the domestic courts had had to decide throughout the entire proceedings had

been the question of their jurisdiction. However complex that question might have been, it did not suffice to justify such lengthy proceedings. The Court held unanimously that there had been a violation of Article 6 § 1.

Kayankin v. Russia (no. 24427/02) (Importance 3) – 11 February 2010 – Violation of Article 6 § 1 – Excessive length of compensation proceedings concerning medical negligence by the State authorities

The applicant complained about the excessive length of the tort proceedings he had brought in order to claim compensation for medical negligence by the State authorities, who had drafted him into the army despite the applicant's serious brain illness.

The Court reiterated that the dispute in the present case concerned compensation for health damage allegedly resulting from negligence on the part of the State military and medical authorities. The Court noted that the nature of the dispute called for particular diligence on the part of the domestic courts. Having regard to the overall length of the proceedings, the Court concluded that the applicant's case was not examined within a reasonable time. There had been a violation of Article 6 § 1.

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

Dąbrowska v. Poland (no. 34568/08) (Importance 2) – 2 February 2010 – Violation of Article 8 – Domestic authorities' failure to take the necessary measures to enforce the decisions ordering that the place of residence of the applicant's child be with her

The applicant complained that the authorities had continually failed to enforce the court's decisions ordering that J.'s place of residence should be with her. She submitted that the State had a positive obligation to take effective measures aimed at securing her right to respect for her private and family life. She also stated that the court-appointed guardians had not acted with due diligence. The applicant had unsuccessfully complained to the supervisory authorities in relation to the guardians' actions. As a consequence of the authorities' failure to enforce their own decisions the custody rights granted to the applicant had turned out to be illusory. She had been forced to agree to meet her son in conditions imposed by her former husband - only in public places and in his presence. The emotional ties between her and her son had been permanently affected.

The Court found that the lapse of time and the ineffectiveness of the enforcement of the binding domestic decisions were, to a large extent, caused by the authorities' own handling of the case. In this connection, the Court reiterated that effective respect for family life requires that future relations between parent and child should not be determined by the mere passing of time. Moreover, it cannot be said that the responsibility for failure of the relevant decisions or measures can be attributed to the applicant who actively sought their enforcement.

The Court concluded that the Polish authorities failed to take, without delay, all the measures that could reasonably be expected to enforce the decisions ordering that the place of residence of the applicant's child be with her and thereby breached the applicant's right to respect for her family life, as guaranteed by Article 8. The Court held that there has been a violation of Article 8 of the Convention.

Raza v. Bulgaria (no. 31465/08) (Importance 2) – 11 February 2010 – Violation of Article 8 – Interference with the right to respect for family life if the expulsion order were to be enforced – Violation of Article 13 – Lack of an effective remedy – Violation of Article 5 §§ 1 and 4 – Unlawful detention – Hindrance to Mr Raza's right to have the lawfulness of his detention reviewed speedily by a court

Mr Raza was arrested on 30 December 2005 and placed in a special detention facility pending enforcement of an expulsion order issued on the ground that he posed a serious threat to national security. Released in July 2008, he is currently awaiting expulsion from Bulgaria to Pakistan. The applicants complained about the order to expulse Mr Raza. They also alleged that Mr Raza's detention pending deportation had been unlawful and unjustified and had not been subject to speedy judicial review.

The Court concluded that Mr Raza, despite having the formal possibility of seeking judicial review of the decision to expel him, did not enjoy the minimum degree of protection against arbitrariness on the part of the authorities. The resulting interference with his right to respect for his family life would therefore not be in accordance with a "law" satisfying the requirements of the Convention. In view of that conclusion, the Court is not required to determine whether the order for Mr Raza's expulsion pursued a legitimate aim and whether it was proportionate to the aim pursued. The Court found that

the decision to expel Mr Raza, if put into effect, would violate Article 8 of the Convention. The Court found that the Government did not establish that the Supreme Administrative Court engaged in a meaningful analysis of the proportionality of Mr Raza's expulsion and concluded that the judicial review proceedings in the present case did not comply with the requirements of Article 13. The Court also concluded that the grounds for Mr Raza's detention – action taken with a view to his deportation – did not remain valid for the whole period of his detention due to the authorities' failure to conduct the proceedings with due diligence. And Mr. Raza did not have an opportunity of having the lawfulness of his detention reviewed speedily by a court. The Court concluded that there had been a violation of Article 5 §§ 1 and 4.

Zakayev and Safanova v. Russia (no. 11870/03) (Importance 3) – 11 February 2010 – Violation of Article 8 – Family separation following the first applicant's expulsion to Kazakhstan

The applicants are a Kazakh national who was removed from Russia to Kazakhstan in April 2003 for a breach of residence regulations, and his wife, a Russian national who lives in Moscow. They come from families of ethnic Chechens forcibly deported to Kazakhstan in the 1940s and who returned to Chechnya between 1980 and 1990. They have four young children who have Russian citizenship. The applicants complained that their nuclear family had been separated following Ramzan's expulsion.

The Court found that the first applicant's removal in 2003 for a breach of the residence regulations had far-reaching negative consequences for the family life of the applicants and their children. The authorities did not give proper consideration to these issues. In the particular circumstances of the present case the Court considers that the economic well-being of the country and the prevention of disorder and crime did not outweigh the applicants' rights under Article 8. The Court held that there had been a violation of Article 8.

- **Right to freedom of thought, conscience and religion**

Işık v. Turkey (no. 21924/05) (Importance 1) – 2 February 2010 – Violation of Article 9 – Infringement of the freedom not to manifest one's religion or belief, on account of the obligation to disclose information concerning an aspect of one's religion or most personal convictions on identity cards

The applicant is a member of the Alevi religious community, which is deeply rooted in Turkish society and history. Their faith, which is influenced, in particular, by Sufism and pre-Islamic beliefs, is regarded by some Alevi scholars as a separate religion and by others as a branch of Islam. In 2004 Mr Işık applied to a court requesting that his identity card feature the word "Alevi" rather than the word "Islam". Until 2006 it was obligatory for the holder's religion to be indicated on an identity card (since 2006 it is possible to request that the entry be left blank). On 7 September 2004 the İzmir District Court dismissed the applicant's request, on the basis of an opinion it had sought from the legal adviser to the Religious Affairs Directorate (a public body). The court found, endorsing that opinion, that the term "Alevi" referred to a sub-group of Islam and that the indication "Islam" on the identity card was thus correct. The applicant appealed on points of law, complaining that he was under an obligation to disclose his beliefs as a result of this obligatory indication on his identity card. He argued that this obligation contravened both the Convention and the Constitution. On 21 December 2004 the Court of Cassation upheld the judgment of the court below without any other reasoning.

The applicant complained that he was obliged to disclose his beliefs on his identity card, a public document that was used frequently in everyday life. He also complained about the denial of his request to have "Islam" on his identity card replaced by the name of his faith, "Alevi". He argued that the existing indication did not represent the reality and that the proceedings leading to the denial of his request were objectionable, as they involved an assessment of his religion by the State.

The Court reiterated that the freedom to manifest one's religion or beliefs had a negative aspect, namely an individual's right not to be obliged to disclose his or her religion or to act in a manner that might enable conclusions to be drawn as to whether or not he or she held such beliefs. The Court did not find persuasive the Government's argument that the indication of religion on identity cards (obligatory until 2006) did not constitute a measure that compelled Turkish citizens (and Mr Işık in particular) to disclose their religious convictions and beliefs. As regards the procedure whereby the applicant, in 2004, had unsuccessfully attempted to obtain the rectification of his identity card, the Court took the view that, since it had led the State to make an assessment of the applicant's faith, it had been in breach of the State's duty of neutrality and impartiality in such matters.

The Government further contended that since the law of 2006 the applicant, in any event, could no longer claim that he was a victim of a violation of Article 9, because since then all Turkish citizens had been entitled to request that the information about religion on their identity cards be changed or that the appropriate entry be left blank. On this point the Court found that the law had not affected its assessment of the situation. The fact of having to apply to the authorities in writing for the deletion of the religion in civil registers and on identity cards, and similarly, the mere fact of having an identity card with the "religion" box left blank, obliged the individual to disclose, against his or her will, information concerning an aspect of his or her religion or most personal convictions. That was undoubtedly at odds with the principle of freedom not to manifest one's religion or belief. The Court pointed out that the breach in question had arisen not from the refusal to indicate the applicant's faith (Alevi) on his identity card but from the very fact that his identity card contained an indication of religion, regardless of whether it was obligatory or optional. The Court found, by six votes to one, that there had been a violation of Article 9. As the applicant had not submitted any claim under Article 41 (just satisfaction) of the Convention, the Court did not make any award. Referring to Article 46 (binding force and execution of judgments), the Court indicated that the deletion of the "religion" box on identity cards could be an appropriate form of reparation to put an end to the breach in question.

Judge Cabral Barreto expressed a dissenting opinion, which is appended to the judgment.

- **Freedom of expression**

Kubaszewski v. Poland (no. 571/04) (Importance 2) – 2 February 2010 – Violation of Article 10 – Domestic authorities' failure to strike a fair balance between the relevant interests of the protection of politicians' rights and an elected representative's right to freedom of expression in a debate concerning financial issues of a municipality

In March 2000, during a session of the Kleczew Municipal Council, of which the applicant was a member at the time, he participated in a debate on the question of whether the Municipal Board had made appropriate use of its budget. He expressed doubts as to whether certain investments had been made as planned and stated that it was not clear which sums had been spent for which purpose. He asked whether this manner of public spending did not amount to money laundering. A local newspaper published an article in which the applicant's accusations against the Municipal Board were quoted. Two months later, seven members of the Municipal Board lodged a civil claim seeking an order requiring the applicant to publish an apology. The claims were fully granted by the regional court. Its judgment was subsequently amended by the second-instance court, which found that most of the applicant's statements had fallen within the limits of permissible criticism and only his allusion to money laundering had gone beyond those limits, infringing the Board members' personal rights. The court ordered the applicant to publish an apology in the local newspaper which had published his statements and to apologise at the Municipal Council's next session. In October 2003, the Supreme Court dismissed the applicant's appeal against the decision. In July 2007 the District Prosecutor brought criminal proceedings against the applicant for making false accusations about another person before a prosecuting body. The criminal proceedings are still pending.

The applicant complained that the municipal authorities' actions had mainly aimed to keep him from interfering with financial issues of the municipality, in breach of his rights under Article 10.

The Court limited its examination to the applicant's statement about the alleged money laundering, since the second-instance court at national level had found all other statements to fall within the scope of freedom of expression. The Court considered that the Municipal Council's session had been the appropriate time and place to discuss any possible financial irregularities concerning the municipal budget. The applicant's allegations, part of a political debate, had not been directed against a specific person, but against the entire Municipal Board. It was moreover precisely the task of an elected representative to ask critical questions when it came to public spending.

Bearing in mind the crucial importance of free political debate in a democratic society, the Court further observed that the domestic courts had at no level of jurisdiction taken into account that the limits of acceptable criticism were wider for politicians than for private individuals and that the members of the Municipal Board thus should have shown a greater degree of tolerance in the face of the applicant's allegations. The Court therefore unanimously held that no fair balance had been struck between the protection of the Board members' reputation and the applicant's right to freedom of expression, in violation of Article 10.

Fedchenko v. Russia (no. 33333/04) and Fedchenko v. Russia (no. 2) (no. 48195/06) (Importance 2) – 11 February 2010 – Violation of Article 10 – Domestic courts' failure to establish convincingly any pressing social need for putting a politician's and a civil servant's rights to

privacy above the applicant's right to freedom of expression and the general interest in promoting the freedom of the press where issues of public interest are concerned

The applicant in both cases is the founder and editor of the weekly newspaper Bryanskiye Budni (Брянские будни). The cases concerned his complaints about defamation proceedings against him for the publication of articles in the newspaper.

In 2003 Mr Fedchenko published an article about a leaflet circulating in the region, which alleged that a Member of Parliament, Mr Shandybin, had accumulated a fortune by dubious means. The article described the contents of the leaflet, speculated on its possible authorship and made some general observations on bribery among Members of Parliament. Mr Shandybin brought defamation proceedings against the applicant, stating that three passages in the article were untrue and damaging to his honour and reputation. The district court granted the claim, holding in particular that the article was insulting. It ordered the applicant to pay Mr Shandybin 5,000 Russian roubles (RUB, approximately 150 euro (EUR)) and to give him an opportunity to publish a response in the newspaper. On appeal, the regional court quashed the order to publish a response, but upheld the remainder of the judgment.

In 2005 the applicant published an article by two authors, which criticised the educational system in the Bryansk region and in particular the head of the regional Department of Education, Mr Geraschenkov. Among other things the article stated that despite significant spending for education in the region, many boarding school pupils became social misfits and that the money was not spent for its designated purpose. Mr Geraschenkov brought defamation proceedings against the applicant and the authors of the article, claiming that several passages were untrue and damaging to his honour and reputation. The district court granted the claims. It ordered the applicant to pay damages, costs and court fees and to publish the operative part of the judgment under the heading "refutation" in the newspaper. On appeal, the regional court quashed the order to pay the court fees but upheld the remainder of the judgment, leaving the applicant with the obligation to pay more than RUB 15,000.

The applicant complained that the domestic courts' judgments had violated his freedom of expression protected by Article 10.

In both cases the Court noted that the articles in question had been part of a debate on a matter of general and public concern, on which the applicant as a journalist and newspaper editor had the freedom to report. Given the crucial importance of free political debate in a democratic society, the limits of acceptable criticism were wider for a politician and a civil servant acting in an official capacity than they were for private individuals. In the first case, the Court observed that two of the three impugned passages referred to other texts, the leaflet distributed in the Bryansk region and an article published in another newspaper. The Court was satisfied that the applicant's description corresponded to the leaflet's contents and noted that the accuracy of the description of the other article's content was not in dispute. It was the form and the tone of the passages that the domestic courts had found defamatory, stating that slang words had been used ironically to describe the politician in a negative light. The Court did not find that the expressions used in the article went beyond the degree of provocation permitted by Article 10, which protects not only the substance of ideas expressed, but also the form in which they are conveyed. As regards the third impugned passage, the Court observed that the applicant had expressed his personal view on the attitude of other members of parliament towards Mr Shandybin. The domestic courts had failed to distinguish between a statement of fact and a value judgment, the truthfulness of which could not be proved. Similarly, in the second case, the Court observed that as far as two of the three impugned passages in the article published by the applicant in 2005 were concerned, it was not the factual content that was at issue, but the authors' opinion. The authors had drawn their own critical conclusions about the educational system in which Mr Geraschenkov played an important role and had presumed that, as he was not only head of the Department of Education but also director of an institute responsible for the appraisal of teachers, teachers might be hesitant to express their discontent. As regards the third impugned passage of the 2005 article, which concerned the alleged dismissal of uncooperative staff and unauthorised budget expenditures, the Court conceded that no evidence of dismissals had been provided other than the fact that one of the authors, who previously held a leading position in the Department of Education, had himself been dismissed. However, their general statement about dismissals could be regarded as an exaggeration not exceeding the boundaries of Article 10. Likewise, given that another newspaper had, with reference to an audit, reported on financial irregularities in the supply of textbooks, the authors had had a sufficient factual basis for their allegations about the expenditures.

In both cases, the Court unanimously concluded that the domestic courts had failed to convincingly establish any pressing social need for putting the politician's and the civil servant's personality rights, respectively, above the applicant's rights and the general interest in promoting the freedom of the press where issues of public interest were concerned, in violation of Article 10.

Alfantakis v. Greece (no. 49330/07) (Importance 2) – 11 February 2010 – Violation of Article 10 – Unjustified ruling against a lawyer for offending comments directed at a public prosecutor at the Court of Appeal in connection with criminal proceedings

The applicant was the lawyer of a popular Greek singer (A.V.) in a case that received considerable media coverage, in which the singer had accused his wife, S.P., of fraud, forgery and use of forged documents causing financial losses to the State. On the recommendation of the public prosecutor at the Athens Court of Appeal, D.M., it was decided not to bring charges against S.P. While appearing live as a guest on Greece's main television news programme, the applicant expressed his views on the criminal proceedings in question, commenting in particular that he had "laughed" on reading D.M.'s report, which he described as a "literary opinion [showing] contempt for [his client]". D.M. sued the applicant for damages, arguing that his comments had been insulting and defamatory. The applicant was ordered to pay damages, and the award was increased on appeal. An appeal on points of law by the applicant was dismissed.

The applicant complained about the civil judgment against him. He further alleged that the Court of Appeal's judgment had not contained a statement of reasons.

Article 10

The Court noted that it was not disputed that the interference by the Greek authorities with the applicant's right to freedom of expression had been "prescribed by law" – by both the Civil Code and the Criminal Code – and had pursued the legitimate aim of protecting the reputation of others.

While lawyers, as intermediaries between the public and the courts, were expected to observe special rules of conduct, they were also entitled to comment in public on the administration of justice, within certain limits. Nevertheless, the Court did not overlook the fact that in this case the offending comments were directed at a member of the national legal service, creating the risk of a negative impact both on his professional image and on public confidence in the proper administration of justice. However, instead of ascertaining the direct meaning of the phrase uttered by the applicant, the Court of Appeal had carried out its own interpretation of what the phrase might have implied. In doing so, the domestic court had relied on particularly subjective considerations, potentially ascribing to the applicant intentions he had not in fact had. Nor had the Court of Appeal made a distinction between facts and value judgments, instead simply determining the effect produced by the phrases "when I read it, I laughed" and "literary opinion". The Greek courts had also ignored the extensive media coverage of the case, in the context of which the applicant's appearance on the television news was more indicative of an intention to defend his client's arguments in public than of a desire to impugn D.M.'s character. Lastly, they had not taken account of the fact that the comments had been broadcast live and could therefore not have been rephrased. Accordingly, the civil judgment ordering the applicant to pay damages to D.M. had not met a "pressing social need" and there had been a violation of Article 10.

Judges Spielmann and Malinverni expressed a joint partly dissenting opinion, which is annexed to the judgment.

Savgın v. Turkey (no. 13304/03) (Importance 3) – 2 February 2010 - Violation of Article 10 – Disproportionate interference with the applicants' right to freedom of expression on account of their criminal conviction for chanting slogans during the Kurdish festival – Violation of Article 6 §§ 1 and 3 (c) – Failure to provide the applicants with an opportunity to reply to the written opinion submitted by the Public Prosecutor – Lack of legal assistance while in police custody

In late 2001 the applicants received criminal convictions for aiding and abetting the PKK after they and some other youths chanted slogans in support of the PKK during the traditional Kurdish festival of Newroz. They complained of their criminal conviction for chanting slogans; they further complained that they had been given no opportunity to reply to the written opinion submitted by the Principal Public Prosecutor to the Court of Cassation concerning their appeal on points of law and that they did not have the assistance of a lawyer while in police custody.

The Court affirmed that, on the basis of domestic legislation to chant the slogan does not constitute any crime and therefore the interference of the State authorities could not be considered as legitimate. Further the Court held that the interference is disproportionate and not necessary in a democratic society in the interests of public safety. Accordingly there had been a violation of Article 11. The Court held that there had been a violation of Article 6 §§ 1 and 3 (c) on account of the fact that the applicants had been given no opportunity to reply to the written opinion submitted by the Principal Public Prosecutor to the Court of Cassation concerning their appeal on points of law and that they did not have the assistance of a lawyer while in police custody.

- **Freedom of assembly**

Christian Democratic People's Party v. Moldova (no. 2) (no. 25196/04) (Importance 2) – 2 February 2010 – Violation of Article 11 – Domestic authorities' unjustified refusal of an opposition party's request to hold a protest demonstration

The applicant, the Christian Democratic People's Party ("the CDPP"), is a political party in the Republic of Moldova which was represented in Parliament and was in opposition at the time of the events. In December 2003, the applicant party asked an authorisation to hold a protest demonstration in front of the Government's building, in order to express their views on the functioning of the democratic institutions in Moldova. Their request was denied by the municipal council on the ground that such a demonstration would urge the population to a war of aggression, ethnic hatred and public violence. The courts dismissed the subsequent appeals by the applicant party finding that the ban to hold a demonstration was justified as the leaders of the party had burned in the past a Russian flag and a picture of the Russian President, and had distributed leaflets which contained slogans such as "Down with Voronin's totalitarian regime" and "Down with Putin's occupation regime", which in the domestic courts' view called for a violent overthrow of the constitutional regime in the country.

The applicant party complained about not being allowed to hold the demonstration as requested.

The Court recalled that political parties played an essential role in the proper functioning of democracy. In view of the public interest in free expression on the functioning of democratic institutions in the country, and the fact that the applicant party had been in opposition at the time of the events, only convincing and compelling reasons could have justified restrictions on their freedom to assemble. The slogans contained in the party's leaflets should have been understood as an expression of an opinion, dissatisfaction and protest in respect of an issue of major public interest and not as a call to violence, even if they had been accompanied by the burning of flags and pictures of heads of state. The potential risk of clashes caused by the demonstrators relied upon by the authorities in justifying their ban had not been sufficient: in particular it was the task of the police to stand between two opposing groups of protestors to ensure public order, and the applicant party had had a record of holding peaceful demonstrations in the past. Accordingly, there had been a violation of Article 11.

Emine Yaşar v. Turkey (no. 863/04) (Importance 2) – 9 February 2010 – Violation of Article 11 – Disproportionate interference with the applicant's right to freedom of assembly on account of the dispersal by force of a demonstration by the police – Violations of Article 3 (substantive and procedural) – Use of excessive police force during the dispersal – Lack of an effective investigation

The applicant complained of the ill-treatment to which she had been allegedly subjected by police officers during the dispersal by force of a forty-strong group of women, including the applicant, who had been seeking to make a statement to the press in protest of the war following the events of 11 September 2001; she also alleged that the courts had granted impunity to the accused police officers.

The Court held that interference of the police force could not be considered legitimate and necessary in a democratic society in the interests of public safety. Accordingly, there had been a violation of Article 11. Taking also in consideration the medical reports, the Court found that the interference of the police force has been excessive, and the State failed to carry out an effective investigation in respect of alleged interference. Accordingly there have been violations of Article 3 under both the procedural and substantive limbs.

Müslüm Çiftçi v. Turkey (no. 30307/03) (Importance 3) – 2 February 2010 – Violation of Article 11 – Transfer to another province on disciplinary grounds for taking part in a hunger strike

The applicant is a civil servant and veterinary surgeon and belongs to a trade union. He was transferred to another province on disciplinary grounds for having taken part in a hunger strike organised by his trade union in late 1998. He complained of his transfer. The Government defended that the applicant was transferred on account of the administration of public order due to the need in another city. The Court refused this conception. It held that the applicant's transfer con not be considered as legitimate and necessary and held that there had been a violation of Article 11.

- **Protection of property**

Klaus and Iouri Kiladze v. Georgia (no. 7975/06) (Importance 1) – 2 February 2010 – Violation of Article 1 of Protocol No. 1 – Domestic authorities' failure to take the appropriate legislative measures to provide compensation for victims of political repression during the Soviet era

Having been the victims of political repression during the Soviet era, the applicants brought an action in 1998 seeking compensation for pecuniary and non-pecuniary damage on the basis of the Law on victim status for persons subjected to political repression. They complained of the "legislative void" which denied them their economic rights under the Law in question. The Court held that inactivity of the State to provide the applicants to use their property is excessive and disproportionate. It concluded that there has been a violation of Article 1 of Protocol 1 due to the fact that the applicants have been unable to obtain adequate compensation for their victim status for persons subjected to political repression during the Soviet era.

***Sud Parisienne de Construction* v. France (no. 33704/04) (Importance 1) – 11 February 2010 – No violation of Article 1 of Protocol No. 1 – Retrospective adjustment of the default interest rate for public procurement contracts did not breach the applicant company's right to peaceful enjoyment of its possessions**

The applicant, *Sud Parisienne de Construction*, is a company incorporated under French law with its registered office in Mandres-les-Roses. In 1986 it took part as a subcontractor in the construction work on the Robert Debré Hospital in Paris. Its involvement had previously been approved in an agreement concluded between *Assistance Publique-Hôpitaux de Paris* (APHP) and the main building contractor. The agreement also provided that if the administrative authorities delayed payment for the work performed, default interest would be payable at a rate of 17% (2.5% above the "interest rate for secured bonds", set at 14.5%). In October 1987 the subcontract was terminated. In accordance with the Public Procurement Contracts Code, *Sud Parisienne de Construction* asked APHP to pay it directly for the work it had carried out prior to the termination of the contract, corresponding to approximately 308,000 Euros. APHP's implicit rejection of that request was endorsed at first instance by the Paris Administrative Court on 19 December 1995. The Paris Administrative Court of Appeal quashed that judgment on 3 June 1997, ordering APHP to pay the applicant company directly the principal sums due and the contractual default interest (17%). On 11 October 1999 the *Conseil d'Etat* dismissed an appeal on points of law by APHP against that decision. During the same period, the statutory rate of default interest was reduced and standardised for all public procurement contracts (by the Budget Amendment Act of 30 December 1996 and the ministerial order of 31 May 1997), not only for future contracts but also for public procurement contracts concluded before 19 December 1993. All references to the "interest rate for secured bonds", a rate which had not changed since 1981, were removed. During the proceedings concerning the execution of the Administrative Court of Appeal's judgment of 3 June 1997 (ordering direct payment to the applicant company of the amount due for the work plus contractual default interest at a rate of 17%), APHP requested that the interest due to the applicant company be reduced to the new statutory level. Its request was accepted by the Paris Administrative Court of Appeal in a judgment of 21 June 2001, which was upheld on 5 July 2004 by the *Conseil d'Etat*. The interest due was reduced from a rate of 17% to 11.5% (the new statutory interest rate of 9.5% plus two points). The judges held that this reduction was justified by compelling public-interest grounds. The new provisions were intended to bring the interest rate for late payment in respect of public procurement contracts closer to the market rates currently applicable for short-term business funding (the "interest rate for secured bonds" having lost all economic relevance on account of the vast changes in monetary conditions and the substantial decline in inflation).

The applicant company complained that the new provisions on default interest had been retrospectively applied in proceedings which had already commenced.

The Court noted firstly that the applicant company did not dispute the validity of the law in question for future cases. It further observed that the interference with the company's right to payment of a debt (the contractual default interest) had been "in the public interest". The fact remained that the rate of default interest had been set with retrospective effect. As the Court observed, it had held in a number of cases that the passing of legislation with retrospective effect was contrary to the Convention where such interference had the effect of resolving the substantive issue in dispute before the national courts, thus making it pointless to carry on with the litigation. The Court considered, however, that the present case did not concern a situation of that kind. The legislative provision in question had not undermined the applicant company's right to compensation for the loss sustained as a result of the delayed payment but had simply rectified, at a rate reasonably linked to inflation, a deviation resulting from the change in monetary conditions. The new legislative provision had had the sole effect for the applicant company of determining the default interest payable to it at a rate reflecting the actual costs

it had borne as a result of the delay in payment, without allowing it to benefit unduly from the very high rate of inflation that had existed at the time when it should have received payment of the principal sum (the inflation rate having decreased considerably between that date and the date on which it had been paid the principal sum together with default interest). The measure in question had therefore not impaired the very essence of the applicant company's right of property. The interference with its possessions had been proportionate and had not upset the fair balance between the demands of the general interest and the requirements of the protection of the individual's fundamental rights. The Court concluded unanimously that there had been no violation of Article 1 of Protocol No. 1.

Aizpurua Ortiz and Others v. Spain (no. 42430/05) (Importance 2) – 2 February 2010 – No violation of Article 1 of Protocol no. 1 – Supreme Court's validation of a new collective agreement altering a supplementary retirement pension scheme was a proportionate interference with the applicants' right to peaceful enjoyment of possessions

The applicants were employed by the company Sefanitro S.A. ("the company") until they took early retirement, at which point they received a supplementary pension under the terms of a collective agreement concluded in 1983. Under the agreement, former staff members who had commenced employment with the company before 1984 received a supplementary annual pension up to the age of 65. When the payments stopped in 1994 the applicants brought actions before the courts, which found in their favour. The 1983 agreement was repealed by a new collective agreement which entered into force in 2000 and under the terms of which employees who had been in receipt of a supplementary pension were to be paid a one-off sum equivalent to three monthly payments. The applicants applied to the employment tribunal, which found partly in their favour and ordered the company to pay the pensions claimed. Following an appeal by the company, the Supreme Court dismissed the applicants' claims, noting in particular that, unless otherwise provided, the rights conferred by an earlier collective agreement could cease to apply if they were revised by a subsequent collective agreement.

The applicants complained that they had been deprived of their supplementary pension rights on the basis of a collective agreement concluded between the company and representatives of the active workforce, who were not entitled to represent them or defend their interests.

In previous cases the Court had ruled that the right to a pension based on employment could in some circumstances be assimilated to a property right, in particular where an employer had given a more general undertaking to pay a pension on conditions that could be considered to be part of the employment contract. In the instant case the applicants' right to a supplementary pension had been recognised under a collective agreement, and they had actually received the pension until the payments had been stopped by the company. Bearing in mind also the steps taken by the applicants, the Court considered that the latter had had a legitimate expectation of continuing to receive payment, and that the right to a supplementary pension constituted an asset falling within the scope of Article 1 of Protocol No. 1. The State's obligation under Article 1 of Protocol No. 1 to take the necessary measures to protect the right of property – even in the context of disputes between private individuals – did not extend to assuming the commitments of a company no longer in a position to pay a pension to its former employees.

In the present case the Supreme Court had validated the agreement in question by means of a final ruling, after hearing evidence from the parties and on the basis of established case-law, making the point that the Spanish legislature had opted for a system in which freedom of collective bargaining took precedence over undertakings secured under earlier collective agreements. The Supreme Court had further observed that the later collective agreement had not done away with the rights recognised by the first agreement, but had replaced them with payment of a lump sum, and that the change had been made in the context of the company's financial difficulties.

The Court considered that the impugned interference with the applicants' right to property had pursued an aim in the general interest, namely to secure the finances of the company and its creditors and to protect employment and the right to collective bargaining. It could find no evidence either that the applicants had been discriminated against compared with the company's active workforce. It was not for the Court to take the place of the national courts and examine the interpretation of Spanish legislation by the Supreme Court (or to rule on the compatibility of domestic law with Community law). The Court saw nothing to indicate that the Supreme Court's decision had been arbitrary or had imposed a disproportionate burden on the applicants. Accordingly, mindful also of the discretion enjoyed by States in shaping social and economic policy, the Court concluded that the Supreme Court judgment complained of had not amounted to disproportionate interference with the applicants' right to peaceful enjoyment of their possessions. It held, by six votes to one, that there had been no violation of Article 1 of Protocol No. 1.

Malysh and Others v. Russia (no. 30280/03) (Importance 3) – 11 February 2010 – Violation of Article 1 of Protocol No. 1 – Infringement of the right to peaceful enjoyment of possessions on account of domestic authorities' failure to implement a procedure for the redemption of Urozhay-90 bonds

The applicants are six Russian nationals and the holders of Urozhay-90 bonds, which were issued by the Government of the Russian Socialist Federative Soviet Republic (RSFSR) with the aim to encourage agricultural workers to sell products to the State in exchange for the right to priority purchasing of consumer goods in high demand at the time (such as refrigerators, washing machines and cars). In 1992, the Russian Government introduced the possibility of buying out the bonds, and a significant number of bonds were bought out until these operations were stopped in 1996. In 1995, Parliament passed the Commodity Bonds Act which recognised the bonds as part of Russia's internal debt and required the Government to adopt a programme for the settlement of this debt. Although in 2000 such a programme was presented for other types of bonds, the application of the Act was repeatedly suspended as regards the Urozhay-90 bonds until 2009, when Parliament eventually passed the Buyout Act setting out a detailed procedure for these bonds.

During 2001 and 2002 the applicants all brought proceedings against the Russian Government and the Ministry of Finance, seeking compensation for the damage incurred through the State's continued failure to effect payment under the bonds they respectively held. In each of the six sets of proceedings the applicants' claims were dismissed by the domestic courts in 2003, essentially on the grounds that a federal law governing the procedure for the settlement of the debt arising out of the Urozhay-90 bonds had not yet been passed.

The applicants complained that the failure of the domestic authorities to discharge their obligations from the bonds violated their rights under Article 1 of Protocol No. 1.

The Court agreed with the Russian Government that the applicants had not suffered a loss of property which the State had undertaken to compensate for. Nor could the bonds be used as a money substitute, as they only certified the right to purchase certain goods while the buyer still had to pay the full purchase price. However, the State had taken upon itself an obligation towards bearers of the bonds that had not been discharged for many years owing to the absence of a legislative framework for its implementation.

The Court noted that the principle of lawfulness in Article 1 Protocol No. 1 required States to ensure the legal and practical conditions for the implementation of the laws they had enacted. Following the enactment of the Commodity Bonds Act the applicants had a legitimate expectation of obtaining some form of redemption of their bonds. The Court was not persuaded by the Government's argument that the recognition of the bonds as part of the State's internal debt had been "mistaken", as no explanation was offered as to why that alleged mistake had not been promptly identified and corrected through an appropriate amendment of the Commodity Bonds Act.

While the Court agreed that the reform of Russia's economy and the state of its finances, might have justified limitations on rights of a purely pecuniary nature, it was not convinced that the restrictions on redemption of the bonds had been necessary to prevent excessive expenditure from the federal budget. A balancing exercise determining the exact amount required to settle the debt under the bonds in relation to other priority expenses would have been possible only with figures such as the quantity and total valuation of the remaining bonds. However, the inventory of the bonds had never been completed, and hence these figures could not have been known. The Court therefore unanimously held that there had been a violation of Article 1 of Protocol No. 1.

- **Disappearance cases in Chechnya**

Guluyeva and Others v. Russia (no. 1675/07) (Importance 3) – 11 February 2010 – Violations of Article 2 (substantive and procedural) – Domestic authorities' failure to justify the use of lethal force by State agents in the presumed death of the applicants' relative – Lack an effective investigation into the circumstances of their relative's disappearance – Three violations of Article 3 – The applicants' ill-treatment during the abduction of their relative – Lack of an effective investigation into their complaints of ill-treatment – Mental suffering caused by their relative's disappearance – Violation of Article 5 – Unacknowledged detention of the applicants' relative – Violation of Article 13 in conjunction with Articles 2 and 3 – Lack of an effective remedy

Dubayev and Bersnukayeva v. Russia (no. 30613/05) (Importance 3) – 11 February 2010 – Violations of Article 2 (substantive and procedural) – Domestic authorities' failure to justify the use of lethal force by State agents in the presumed death of the applicants' relative – Lack of an effective investigation into the circumstances of their disappearance – Violation of Article 3 – The applicants' mental suffering as a result of their sons' disappearance – Violation of Article 5 – Unacknowledged

detention of the applicants' sons – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Additional information concerning the Court's findings in these cases

Having also drawn interferences from the Government's failure to submit the documents which were in their exclusive possession or to provide a plausible explanation for the events and abductions in question, the Court found that Razman Guluyev (first case) had been abducted from his home on 13 July 2002 by State servicemen during an unacknowledged security operation. In addition, the Court noted that Islam Dubayev and Roman Bersnukayev (second case) had been detained by State agents between 14 and 17 March 2000 and no proper records had been drawn up in connection with their detention or release; they had not been seen since and the investigation had failed to establish their whereabouts or what had happened to them. In the absence of Ramzan, Islam or Roman, or of any news about them for several years, and given the failure of the Government to justify their disappearance after being detained by State agents, the Court concluded that the three men should be presumed dead and that their deaths could be attributed to the State. Accordingly, there had been a violation of Article 2 in both cases in respect of the disappeared men.

In both cases, the Court further held that there had been violations of Article 2 relating to the authorities' failure to carry out effective investigations into the circumstances in which the applicants' relatives had disappeared.

The Court also found that the applicants in both cases had suffered and continued to suffer distress and anguish as a result of the disappearance of their relatives and their inability to find out what had happened to them. The manner in which their complaints had been dealt with by the authorities had to be considered to constitute inhuman treatment in violation of Article 3.

As regards the first case, the Court found that the ill-treatment to which the applicants had been subjected breached Article 3, as it not only caused them physical suffering, but must have made them feel humiliated and caused fear and anguish as to what might happen to them and their family member. Furthermore, the Court held that there had been a separate violation of Article 3, given that the applicants had properly complained before the investigating authorities of having been ill-treated, but no adequate investigation had been carried out into their complaints.

The Court found that in both cases the applicants' relatives had been held in unacknowledged detention without any of the safeguards contained in Article 5, which constituted a particularly grave violation of the right to liberty and security enshrined in that Article.

The Court finally held that as the criminal investigations into the disappearances, in both cases, and into the ill-treatment of the applicants in the first case, had been ineffective and the effectiveness of any other remedy that may have existed, including civil remedies suggested by the Government, had consequently been undermined, the State had failed in its obligation under Article 13 of the Convention. Consequently there had been a violation of Article 13 in conjunction with Articles 2 and 3 of the Convention in the first case, and a violation of Article 13 in conjunction with Article 2 in the second case.

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 02 Feb. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 04 Feb. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 09 Feb. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 11 Feb. 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.

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Bulgaria	04 Feb. 2010	Dechko Raykov (no. 35256/02) Imp. 3	No violation of Art. 3 (substantive) No violation of Art. 3 (procedural)	Lack of sufficient evidence to establish the applicant's alleged ill-treatment Effective investigation into the alleged ill-treatment	Link
Bulgaria	04 Feb. 2010	Gerdzhikov (no. 41008/04) Imp. 3	Violation of Art. 6 § 1 (length) Violation of Art. 13 in conjunction with Art. 6 § 1	Excessive length of criminal proceedings for asset mismanagement as liquidator Lack of an effective remedy	Link
Estonia	04 Feb. 2010	Malkov (no. 31407/07) Imp. 3	Violation of Art. 5 § 3	Excessive length of pre-trial detention (more than four years and nine months)	Link
France	11 Feb. 2010	Javaugue (no. 39730/06) Imp. 2	Two violations of Art. 6 § 1 (fairness)	Participation of the Government Commissioner in the deliberations of the *Conseil d'État* Retrospective application of a law denying the applicant the right to take early retirement	Link
France	11 Feb. 2010	Malet (no. 24997/07) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of criminal proceedings	Link
Italy	02 Feb. 2010	Leone (no. 30506/07) Imp. 3	Violation of Art. 6 § 1 (fairness)	Lack of a public hearing (See *Bocellari and Rizza v. Italy*)	Link
Poland	02 Feb. 2010	Brożyna (no. 7147/06) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of criminal proceedings concerning the applicant's threats to kill and assault another person	Link
Poland	02 Feb. 2010	Sobczyński (no. 35494/08) Imp. 3	No violation of Art. 5 § 3	Relevant and sufficient reasons to justify the length of the applicant's detention on remand	Link
Poland	02 Feb. 2010	Nieruchomości SP. Z O.O. (no. 32740/06) Imp. 3	Violation of Art. 6 § 1 (fairness)	Infringement of the right of access to a court on account of domestic authorities' refusal to exempt the applicant company from paying an excessive amount of court fees	Link
Romania	02 Feb. 2010	Scundeanu (no. 10193/02) Imp. 2	Violation of Art. 5 § 3	Excessive length of pre-trial detention in criminal proceedings for fraud	Link
Russia	11 Feb. 2010	Sabirov (no. 13465/04) Imp. 3	Two violations of Art. 5 § 1 Violation of Art. 6 §§ 1 and 3 (c) (fairness)	Unlawfulness of detention Supreme Court's failure to ensure the effectiveness of the applicant's defence by state-appointed counsel	Link
Turkey	02 Feb. 2010	Aktar (no. 3738/04) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of civil proceedings concerning the applicant's claim to title over seven plots of land	Link
Turkey	02 Feb. 2010	Akdeniz (no. 11011/05) Imp. 3	Violation of Art. 6 § 1 (fairness)	Infringement of the right of access to a court on account administrative court's refusal to grant the applicant legal aid	Link
Turkey	02 Feb. 2010	İsmail and Şeyhmus Kinay (nos. 34683/07 and 34685/07) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention (still pending; more than nine years and eleven months) Excessive length of criminal proceedings for belonging to an illegal organisation	Link
Turkey	02 Feb. 2010	Kaçmaz (no. 43648/05) Imp. 3	Violation of Art. 5 §§ 3, 4 and 5 Violation of Art. 6 § 1 Violation of Art. 13 in	Excessive length of pre-trial detention (nearly ten years); lack of an effective remedy Excessive length of proceedings for belonging to an illegal organisation Lack of an effective remedy	Link

			conjunction with Art. 6 § 1		
Turkey	02 Feb. 2010	Taşkın and Others (nos. 30206/04, 37038/04, etc.) Imp. 2	No violation of Art. 8 No violation of Art. 14 in conjunction with Art. 8	Domestic authorities' refusal to change the applicants' first names in Kurdish names containing letters unknown to the official Turkish alphabet was justified by the need for linguistic unity in relationship with administrative authorities and public services	Link
Turkey	02 Feb. 2010	Mehmet Nuri Özen (no. 37619/05) Imp. 3	Violation of Art. 8	Infringement of the right to respect for correspondence on account of prison authorities' failure to transfer the applicant's document criticising F-type prisons to a newspaper	Link
Turkey	02 Feb. 2010	Zehni Doğan (no. 1515/04) Imp. 3	Violation of Art. 5 §§ 3 and 5	Excessive length of pre-trial detention in proceedings for fraud and forgery of identity cards; lack of an enforceable right to compensation	Link
Turkey	09 Feb. 2010	Bölükbaş and Others (no. 29799/02) Imp. 3	Violation of Art. 1 of Prot. 1	Deprivation of the applicants' property, declared as public forest area, without compensation	Link
Turkey	09 Feb. 2010	Boz (no. 2039/04) Imp. 3	Violation of Art. 6 § 1 (length) Violation of Art. 6 §§ 1 and 3 (c) (fairness)	Excessive length of criminal proceedings on suspicion of belonging to the PKK Lack of legal assistance while in police custody	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**
Azerbaijan	11 Feb. 2010	Jafarov (no. 17276/07) link	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce a judgment in the applicant's favour in which an internally displaced family was to be evicted from a flat for which the applicant had been granted occupancy rights
Romania	09 Feb. 2010	Bistrițeanu and Popovici (no. 5855/05) link Evolceanu (no. 37522/05) link Mărăcineanu (no. 35591/03) link	Violation of Art. 1 of Prot. 1	The applicants' inability to recover possession of property nationalised and subsequently sold by the State
Romania	09 Feb. 2010	Marioara Anghelescu (no. 5437/03) link	Just satisfaction Struck out	Struck out of the list following the just satisfaction following the judgment of 3 June 2008 in the applicant's favour
Romania	09 Feb. 2010	Mlădin (no. 5381/04) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	State's failure to enforce a final judgment in the applicant's favour concerning the applicant's ownership title of a land awarded to the applicant as compensation

Romania	09 Feb. 2010	Tăutu (no. 17299/05) link	Violation of Art. 1 of Prot. 1	Quashing of a final judgment in the applicant's favour on an application by the Procurator-General
Russia	11 Feb. 2010	Abdullayev (no. 11227/05) link	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Quashing of final judgments in the applicant's favour by way of supervisory review
Russia	11 Feb. 2010	Zalevskaya (no. 23333/05) link	Idem.	Idem.
Russia	11 Feb. 2010	Kucherov and Frolova (no. 14390/05) link	Violation of Art. 6 § 1	Quashing of final judgments in the applicants' favour by way of supervisory review
Russia	11 Feb. 2010	Votintseva (no. 44381/04) link	Idem.	Quashing of final judgments in the applicant's favour by way of supervisory review
Turkey	09 Feb. 2010	Bora (no. 14719/03) link	Violation of Art. 1 of Prot. 1	Failure to enforce a final judgment in the applicant's favour concerning the re-inscription of a title-deed of a plot of land belonging to him in his name

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	11 Feb. 2010	Alagić (no. 17656/07)	Link
Germany	04 Feb. 2010	Gromzig (no. 13791/06)	Link
Poland	02 Feb. 2010	Magoch (no. 29539/07)	Link
Slovakia	09 Feb. 2010	A.R., spol. s r.o. (no. 13960/06)	Link
the United Kingdom	09 Feb. 2010	Richard Anderson (no. 19859/04)	Link
Turkey	09 Feb. 2010	Evrim İnşaat A.Ş. (no. 19173/03)	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 11 to 24 January 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***
Armenia	19 Jan. 2010	Nersesyan (no 15371/07) link	Alleged violation of Art. 6 § 1 (Court of Cassation's insufficient reasoning of the decision returning the applicant's appeal on points of law) and Art. 1 of Prot. 1 (violation of the alleged disposition by the actions of	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)

			the notary and the court judgments)	
Belgium	12 Jan. 2010	Khatchadourian (no 22738/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 6 § 3 a), c) and e) (failure to provide the applicant the adequate assistance of an interpreter), Art. 13 in conjunction with Art. 6 §§ 1 and 3 (lack of an effective remedy) and Art. 14 (discrimination on grounds of language)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings and the lack of an effective remedy in that regard), partly inadmissible as manifestly ill-founded (concerning claims under Art. 6 § 3 and the lack of an effective remedy in that regard and the claims under Art. 14)
Belgium	12 Jan. 2010	Awdesh (no 12922/09) link	Alleged violation of Art. 3 (risk of being subjected to treatment contrary to this provision if expelled to Greece where the applicant risked being deported to Iraq) and Art. 8 (infringement of the rights to respect for family life if expelled to Greece)	Struck out of the list (it is no longer justified to continue the examination of the application: the applicant's request for asylum was being examined)
Belgium	12 Jan. 2010	Mirzae (no 49950/08) link	Alleged violation of Art. 3 (risk of being subjected to treatment contrary to this provision if expelled to Greece, where the applicant risked being deported to Afghanistan)	Idem.
Bulgaria	12 Jan. 2010	Iliev (no 74137/01) link	In particular alleged violation of Art. 3 (alleged ill-treatment by serving officers during military service causing the applicant's epilepsy and lack of an effective investigation)	Inadmissible as manifestly ill-founded (lack of sufficient evidence to conclude ill-treatment and the effectiveness of the investigation)
Cyprus	14 Jan. 2010	Sofi (no 18163/04) link	Alleged violation of Art. 1 of Prot. 1 (deprivation of access to and enjoyment of immovable property), Art. 8 (continuing violation of the right to respect for the home), Art. 14 (the applicant's discrimination as a Turkish Cypriot) and Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Estonia	12 Jan. 2010	Jürgens (no 29481/07) link	Alleged violation of Art. 5 §§ 3 and 4 (excessive length of detention and refusal to consider the applicant's request for release)	Struck out of the list (applicant no longer wished to pursue his application)
Estonia	12 Jan. 2010	Kahana (no 23792/07) link	Alleged violation of Art. 5 § 3 (excessive length of detention) and Art. 6 § 1 (unfairness of proceedings)	Idem.
Finland	12 Jan. 2010	V.S. (no 59531/08) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of civil proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the excessive length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Finland	12 Jan. 2010	Vunukainen (no 1430/09) link	Alleged violation of Art. 6 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Finland	12 Jan. 2010	Arhela (no 38776/07) link	Alleged violation of Art. 6 § 1 and Art. 13 (excessive length of proceedings and lack of an effective remedy)	Idem.
Finland	19 Jan. 2010	Ackermann (no 12490/06) link	In particular alleged violation of Art. 6 and Art. 14 (length of proceedings and State's failure to ensure the availability of a satisfactory number of judges with sufficient knowledge of the Swedish language in the Helsinki Court of Appeal)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
France	19 Jan. 2010	Levenez (no 30643/06) link	Alleged violation of Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 1 of Prot.1 and Art. 8 (failure to	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 6 § 1), partly inadmissible as

			inform the applicants of the risk of interpretation for a morphological scan and lack of a compensation system for the excessive charges resulting from the applicants' child's handicap)	manifestly ill-founded (concerning claims under Articles 13 and 8), partly incompatible *ratione materiae* (concerning claims under Art. 1 of Prot. 1)
France	19 Jan. 2010	Decheix (no 26522/03) link	Alleged violations of Art. 6 § 1 (unfairness of proceedings and lack of impartiality of the courts)	Incompatible *ratione materiae*
France	19 Jan. 2010	Herr (no 623/04) link	Alleged violations of Art. 6 § 1 (length and unfairness of proceedings and lack of impartiality of the courts)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings), partly incompatible *ratione materiae* (concerning the remainder of the application)
France	19 Jan. 2010	Desriaux (no 29308/06) link	Alleged violation of Art. 6 § 1 (infringement of the principle of legal certainty, unfairness and excessive length of proceedings)	Partly inadmissible (no respect of the six-month requirement concerning the infringement of the principle of legal certainty and the unfairness of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
France	19 Jan. 2010	Richard-Dubarry (no 46719/06) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings)	Inadmissible for non-exhaustion of domestic remedies
France	19 Jan. 2010	H. (no 33087/07) link	Alleged violation of Articles 2, 3 and 13 (risk of being killed or subjected to ill-treatment if expelled to Iran and lack of an effective remedy)	Struck out of the list (applicant no longer wished to pursue his application)
Germany	12 Jan. 2010	Paefgen (no 13778/07) link	Alleged violation of Art. 6 § 1 (length and unfairness of the proceedings before the family courts), Art. 8 (in particular incomplete assessment of facts by the family courts, imprecise regulations on contact rights) and Art. 14 in conjunction with Art. 8 (the applicant discriminated against in his capacity as a father without a fixed residence)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Germany	19 Jan. 2010	Bock (no 22051/07) link	Alleged violation of Art. 6 and Art. 13 (excessive length of proceedings and lack of an effective remedy)	Inadmissible (abuse of the right to petition)
Germany	19 Jan. 2010	Marchitan (no 22448/07) link	Alleged violation of Art. 2 (authorities' failure to take the necessary steps to prevent the applicants' son's suicide in custody and lack of an effective investigation into the circumstances of their son's death) and Art. 3 (lengthy delay in informing the applicants about their son's detention and death)	Inadmissible (non-exhaustion of domestic remedies)
Greece	21 Jan. 2010	Rukaj (no 2179/08) link	Alleged violation of Articles 9 and 10 (the applicants' conviction for his letters to the International Federation of Human Rights in which he criticised the professional behaviour of his lawyer)	Inadmissible as manifestly ill-founded (proportionate interference in order to protect reputation rights)
Hungary	19 Jan. 2010	Domaniczky (no 5422/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Italy	12 Jan. 2010	Avignone (no 39716/02) link	Alleged violation of Art. 3 (ill-treatment on account of the special regime to which the applicant was subjected to in prison), Art. 8 (restrictions imposed on the family visits and on the right to respect for correspondence due to special regime) and Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)

Italy	12 Jan. 2010	Vagnola S.P.A. & Madat S.R.L. (no 7653/04) link	Alleged violation of Art. 1 of Prot. 1 (the applicants' inability to use their property in an area classified as an archeological zone) and Art. 6 § 1 (unfairness of proceedings)	Idem.
Italy	19 Jan. 2010	Colonna and Begozzi N° 1 (no 16475/05; 17079/05; 17081/05) link	Not available	Struck out of the list pursuant to Art. 37 § 1
Latvia	19 Jan. 2010	X. and Y. (no 41114/02) link	The complaints concerned the lack of an effective investigation into the alleged ill-treatment of the first applicant and the unfairness of the criminal proceedings	Struck out of the list (applicants no longer wished to pursue their application)
Latvia	19 Jan. 2010	Rudakovs (no 17497/02) link	The application concerned the poor conditions of detention in places of detention in Daugavpils and Rīga and the inadequacy of medical treatment received by the applicant while in detention, the interference with the applicant's right to respect for family life and correspondence, and freedom of religion	Struck out of the list (applicant no longer wished to pursue his application)
Moldova	19 Jan. 2010	Filimonova (no 21136/03) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of the compensational costs part of a judgment in the applicant's favour), Art. 13 (lack of an effective remedy) and Articles 3, 5, 8, 14 and 17	Partly struck out of the list (unilateral declaration of the Government concerning claims under Art. 6 § 1 and Art. 1 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)
Poland	12 Jan. 2010	Litke (no 22102/07) link	Alleged violation of Art. 6 § 1 (lack of access to the Supreme Court)	Struck out of the list (friendly settlement reached)
Poland	12 Jan. 2010	Chmielewski (no 32946/08) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings relating to the determination of the applicant's prison sentence)	Idem.
Poland	12 Jan. 2010	Marniak (no 9598/09) link	Alleged violation of Art. 6 (excessive length of civil proceedings)	Idem.
Poland	12 Jan. 2010	Padjas (no 33466/07) link	Alleged violation of Art. 6 § 1 (restriction on the applicant's right to access to a court on account of the refusal to grant her legal aid and unfairness of the proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the restriction on the applicant's right to access to a court), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	12 Jan. 2010	Piechowicz (no 14943/07) link	Alleged violation of Art. 5 §§ 3 and 5 (excessive length of pre-trial detention) and Art. 6 § 1 (excessive length and unfairness of criminal proceedings)	Inadmissible (for non-exhaustion of domestic remedies)
Poland	12 Jan. 2010	Kułaga (no 33046/03) link	Alleged violation of Art. 6 § 1 (excessive length of administrative proceedings)	Idem.
Poland	12 Jan. 2010	Pepłowski (no 18346/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (excessive length of both sets of criminal proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of pre-trial detention and the length of criminal proceedings in the first set of criminal proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)

Poland	12 Jan. 2010	Wasiak (no 18765/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (excessive length of criminal proceedings) and Art. 8 (censorship of the applicant's correspondence with the United Nations Office in Geneva)	Partly struck out of the list (unilateral declaration of the Government concerning the length of pre-trial detention and the length of the first set of criminal proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	12 Jan. 2010	Bernatowicz (no 69122/01) link	Alleged violation of Art. 3 (ill-treatment upon arrest), Art. 5 § 1 (unlawful detention) and Art. 8 (wrongful disclosure of information concerning the applicant's detention)	Partly inadmissible as manifestly ill-founded (concerning the claims under Art. 5 § 1 and Art. 3) partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Poland	12 Jan. 2010	Dawluszewicz (no 24338/06) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention)	Inadmissible as manifestly ill-founded (the domestic authorities displayed the required diligence in the applicant's case)
Poland	12 Jan. 2010	Burzyński (no 4235/07) link	Idem.	Struck out of the list (unilateral declaration of Government)
Poland	12 Jan. 2010	Sobczyk (no 36370/07) link	Idem.	Inadmissible as manifestly ill-founded
Poland	19 Jan. 2010	Szybicki (no 39055/08) link	Idem.	Struck out of the list (friendly settlement reached)
Poland	19 Jan. 2010	Kluk (no 4389/08) link	Alleged violation of Art. 5 § 3 (pre-trial detention had been ordered by a trainee judge and excessive length of that detention), Art. 6 § 1 (unfairness and excessive length of criminal proceedings), Art. 6 § 3 (delayed access to case file) and Art. 8 (restrictions imposed on the visits by the applicant's wife and daughter)	Partly struck out of the list (unilateral declaration of the Government concerning the excessive length of pre-trial detention and the restrictions imposed on the visits by the applicant's wife and daughter), partly inadmissible (non respect of the six-month requirement concerning the fact that the detention had been ordered by a trainee judge), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Poland	19 Jan. 2010	Wasiak (no 29042/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Poland	19 Jan. 2010	Jedrzejuk (no 6620/04) link	Alleged violation of Articles 1, 2, 5, 6, 13, 14, and Art. 1 of Prot. 1	Inadmissible (no further details available)
Poland	19 Jan. 2010	Kozdój (no 45769/08) link	Alleged violation of Art. 6 (length of criminal proceedings)	Struck out of the list (applicant no longer wished to pursue his application)
Romania	19 Jan. 2010	Lăzărescu (no 9332/02) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (unfair trial and non-enforcement of a judgment in the applicant's favour), Art. 6 § 1 and Art. 13 (excessive length of proceedings and lack of an effective remedy) and Articles 2 and 3 of Prot. 4 and Art. 3 of Prot. 7.	Inadmissible (the applicant's conduct was contrary to the purpose of the right of individual petition and was rejected as abusive)
Romania	19 Jan. 2010	Tudor (no 18613/08) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings; lack of motivation of domestic courts' decisions) and Art. 1 of Prot. 1 (amount of the civil damages received)	Struck out of the list (friendly settlement reached)
Romania	19 Jan. 2010	Vodă (no 35812/02) link	In particular alleged violation of Art. 6 § 1 (non-enforcement of a judgment in the applicant's favour and excessive length of	Inadmissible (partly because the complaints under Articles 8 and 11 had been abandoned by the applicant and partly as manifestly

			proceedings), Art. 8 (interference with the applicant's correspondence), Art. 11 (interference with the applicant's right to participate in a trade union by dismissal from his job)	ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Romania	12 Jan. 2010	Elena and Mihai Toma (no 16563/03) link	In particular alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 1 of Prot. 1 (the applicants' inability to have access to their flat)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Romania	12 Jan. 2010	Teju (no 23302/05) link	Alleged violation of Art. 1 of Prot. 1	Struck out of the list (applicant no longer wished to pursue her application)
Romania	12 Jan. 2010	Russu (no 27436/04) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 6 § 2 (infringement of the principle of presumption of innocence by the court), Art. 6 § 3 a), b) and c) (lack of legal assistance while in police custody), Art. 8 (search of the applicant's office), and Art. 13 (lack of an effective remedy)	Partly inadmissible as manifestly ill-founded (concerning claims under Article 6 §§ 1 and 2, Articles 8 and 13), partly inadmissible (non-exhaustion of domestic remedies concerning the remainder of the application)
Romania	12 Jan. 2010	Savu (no 12161/05) link	Alleged violation of Art. 6 and Art. 1 of Prot 1 (annulment of a decision in the applicant's favour by way of supervisory review); infringement of the applicant's right to compensation as a result of nationalized property	Partly struck out of the list (at the applicant's request), partly incompatible *ratione materiae*
Romania	12 Jan. 2010	Manofescu (no 44307/05) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicants favour and unfairness of proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Romania	19 Jan. 2010	Maghiran (no 29402/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour) and Articles 6 and 13 (annulment of the enforcement acts by a domestic court)	Idem.
Russia	21 Jan. 2010	Tyurin (no 35064/04) link	Alleged violation of Articles 6 and 13	Partly struck out of the list and partly inadmissible
Russia	21 Jan. 2010	Gushchina (no 21404/05) link	Alleged violation of Art. 13 and Art. 1 of Prot. 1	Struck out of the list pursuant to Art. 37 § 1
Russia	21 Jan. 2010	Kuzmina (no 20423/05) link	Alleged violation of Art. 6 (quashing of a final judgment in the applicant's favour, unfairness and excessive length of proceedings) and Art. 13 (lack of an effective remedy)	Struck out of the list (applicant no longer wished to pursue her application)
Slovakia	19 Jan. 2010	Ďurka (no 18596/05) link	Alleged violation of Art. 6 § 1 (quashing of a final judgment by way of supervisory review)	Struck out of the list (applicant no longer wished to pursue his application)
Slovakia	19 Jan. 2010	Vrábel (no 77928/01) link	Alleged violation of Art. 2 (lack of an effective investigation into the applicant's son's death) Articles 6 § 1, 13 and 17	Partly inadmissible as manifestly ill-founded, partly incompatible *ratione materiae*
Slovenia	12 Jan. 2010	Jeseničnik (no 30658/03) link	Alleged violation of Articles 6 and 13 (excessive length of civil proceedings and lack of an effective remedy)	Inadmissible as manifestly ill-founded (non-exhaustion of domestic remedies and lack of an arguable claim under Article 13)
Sweden	12 Jan. 2010	Jacobsson (no 59122/08) link	Alleged violation of Art. 6 (lack of impartiality of the court) and Art. 1 of Prot. 1 (extensive restrictions on the use of the applicant's property, including building and logging bans)	Partly adjourned (concerning the complaint under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (no evidence to conclude that the court has failed to met the impartiality requirements)
Sweden	12 Jan. 2010	Zubczewski (no 16149/08) link	Alleged violation of Art. 14 in conjunction with Art. 1 of Prot. 1 (lower pension for a married person	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the

			than the equivalent for a single person) and Art. 17	Convention)
Sweden	19 Jan. 2010	Halilova and Others (no 20283/09) link	Alleged violation of Art. 8 (separation of the family for an unknown period of time if deported to Kazakhstan)	Struck out of the list (it is no longer justified to continue the examination of the application since the applicants no longer risk deportation from Sweden)
Sweden	19 Jan. 2010	Iljazovic and Others (no 38233/09) link	Alleged violation of Art. 3 (if deported to Serbia, there would be no one to take care of the applicants as the Serbian authorities would not provide them with suitable care and as they had no connection to the country) and Art. 8 (deportation would separate the applicants from their mother for a very long time)	Idem.
the Netherlands	19 Jan. 2010	Van Dalsum & Schouten Recruitment and Interim Management B.V. (no 38838/05) link	Alleged violation of Art. 6 (unfairness of proceedings)	Struck out of the list (it is no longer justified to continue the examination of the application)
the United Kingdom	19 Jan. 2010	Almasri (no 5519/08) link	Alleged violation of Articles 3, 5, 6, 8 and 14 (scheduled deportation to Syria)	Struck out of the list (applicant no longer wished to pursue his application)
the United Kingdom	19 Jan. 2010	T.S. and D.S. (no 61540/09) link	Alleged violation of Art. 6 (unfairness of proceedings) and Art. 8 (removal of the applicants' daughter into a foster home)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
the United Kingdom	19 Jan. 2010	Bailey (no 39953/07) link	Alleged violation of Article 2 and/or 3 (the applicant's son had hung himself while in detention at Stoke Heath Young Offenders Institution, allegedly due to his conviction and absence of a sufficient number of secure places fit for the detention of children highly vulnerable to suicide and self harm)	Inadmissible (no failure to comply with the procedural obligations under Art. 2; the applicant may no longer claim to be a victim of a violation)
Turkey	12 Jan. 2010	Günay (no 31596/07) link	Alleged violation of Articles 5 §§ 1 (c), 3 and 5 and Art. 2 of Prot. 1 (excessive length of pre-trial detention and authorities' refusal of the applicant's requests for release pending trial), Art. 6 (unfairness and excessive length of criminal proceedings) and Art. 1 of Prot. 12 (discriminatory character of the anti-terror laws)	Partly adjourned (concerning the length of detention on remand, together with an enforceable right to compensation and excessive length of proceedings), partly incompatible *ratione personae* (concerning claims under Art. 1 of Prot. 12) and partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Turkey	12 Jan. 2010	Düzgün (no 25960/03) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (the authorities' failure to pay the judgment debt)	Struck out of the list (the matter could be considered resolved at the domestic level)
Turkey	12 Jan. 2010	Aktürk and Others (no 10910/04; 10923/04) link	Alleged violation of Art. 1 of Prot. 1 (delayed payment of the additional expropriation compensation and the resulting loss suffered in view of the low interest rates)	Struck out of the list (applicants no longer wished to pursue their applications)
Turkey	19 Jan. 2010	Yilmaz (no 36607/06) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of administrative proceedings), Art. 8 (security investigation report in the proceedings and the administrative decision made on the basis of that report), Art. 14 in conjunction with Articles 6 and 8 (different treatment *vis-à-vis* other teachers) and Art. 1 of Prot. 1 (deprivation of presumed salary, if the applicant had been appointed to the position)	Partly adjourned (concerning the length of proceedings, the non-communication of the Public Prosecutor's public opinion and the applicant's right to respect for his private life), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)

Turkey	19 Jan. 2010	Özel (no 2917/05) link	Alleged violation of Art. 6 § 1 (excessive amount of court fees and refusal to grant legal aid), articles 8, 13 and Art. 1 of Prot. 1 (the applicant not permitted to move back to his village for nine years and lack of an effective remedy in that connection) and Art. 14 (discrimination on grounds of the applicant's origin)	Partly adjourned (concerning the amount of court fees), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Turkey	12 Jan. 2010	Sinan Yildiz and Others (no 37959/04) link	Alleged violation of Art. 1 of Prot. 1 (the applicants' plots of land were classified as an archeological site, without awarding them any compensation), and Art. 14 (discrimination on grounds of ethnic origin)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Turkey	19 Jan. 2010	Karaca (no 39257/04) link	Alleged violation of Articles 3 and 6	Struck out of the list (applicant no longer wished to pursue his application)
Turkey	19 Jan. 2010	Ayhanci (no 43811/02) link	Alleged violation of Art. 3 (ill-treatment while in police custody), Articles 6 § 1 and 13 (lack of an effective remedy in respect of the alleged ill-treatment), Art. 5 § 1 (unlawfulness of the applicant's arrest)	Inadmissible as manifestly ill-founded (lack of any evidence to presume a violation of Art. 3, and for no respect of the six-month requirement)
Ukraine	12 Jan. 2010	Belyaev and Digtyar (no 16984/04; 9947/05) link	In particular alleged violations of Art. 3 (ill-treatment, conditions of detention and lack of medical assistance in the Sumy SIZO and ill-treatment in the Romny Prison), Articles 8, 10, and 34 (monitoring of the applicants' letters and refusal to send them on to the addressees), Art. 6 § 1 and 13 (unfairness of proceedings and lack of an effective remedy), Art. 5 § 2 (the reasons of arrest not explained to the applicants), Articles 1, 5, 6, 7, 9, 14 and 17	Partly adjourned (concerning the conditions of detention in the Sumy SIZO, the lack of medical assistance and the interference with the right to respect for correspondence and the instigation by the authorities to oblige the first applicant to retract his application with the Court), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Ukraine	12 Jan. 2010	Kaverzin (no 23893/03) link	Alleged violation of Art. 3 (torture in police custody, lack of an effective investigation and lack of medical care in detention), Articles 5, 6 and 13 (excessive length of criminal proceedings, the applicant's inability to examine witnesses)	Partly adjourned (concerning the alleged torture in police custody, the lack of an effective investigation and the lack of medical care in detention), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	12 Jan. 2010	Lygun (no 50165/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 3 (ill-treatment in detention), 5 §§ 1 – 5 (unlawfulness of the applicant's administrative arrest) and 6 §§ 1, 2 and 3 (c) (outcome of proceedings and the applicant's interrogation in his lawyer's absence)	Partly adjourned (concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Ukraine	12 Jan. 2010	Sizykh (no 25914/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 3 (threat with the torture by a police officer in order to get the applicant's confession), Art. 5 § 1 (unlawfulness of pre-trial detention), Articles 6 § 1, 7, 13 and 14 (unfavourable outcome of the proceedings and unlawfulness of the conviction) and Art. 17 (the applicant's deprivation of unspecified benefits)	Idem.

C. The communicated cases

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

There is in general a gap of three weeks between the date of the communication and the date of the publication of the batch on the Website. Below you will find the links to the lists of the weekly communicated cases which were published on the Court's Website:

- on 25 January 2010 : link
- on 1 February 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 25 January 2010 on the Court's Website and selected by the NHRS Unit

The batch of 25 January 2010 concerns the following States (some cases are however not selected in the table below): Armenia, Austria, Bulgaria, France, Georgia, Germany, Greece, Latvia, Malta, Moldova, Montenegro, Norway, Romania, Russia, the Czech Republic, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Bulgaria	04 Jan. 2010	Dimitrovi no. 5776/05	Questions relating to exhaustion of domestic remedies (Art. 35 § 1) – Alleged violations of Art. 2 – Domestic authorities' failure to take steps to protect the applicants' son's life and physical integrity in police custody – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Bulgaria	04 Jan. 2010	M.P. and Others no. 22457/08	Questions relating to whether the applicant had sufficient standing under Art. 34 – Alleged violation of Art. 3 and Art. 8 – Domestic authorities' failure to fulfil their positive obligations to protect the second applicant's physical and/or moral integrity and his private life – Failure to carry out a speedy and effective investigation into the allegations of sexual abuse against the second applicant and to remove him from the home where he would most likely continue to be a victim of such abuse – Alleged violation of Art. 8 – Failure to provide the applicants with assistance in respect of facilitating the meetings between them – Alleged violation of Art. 13 – Lack of an effective remedy
Georgia	04 Jan. 2010	Goloshvili no. 45566/08	Alleged violation of Art. 3 – Infection with tuberculosis in Tbilisi no. 5 prison – Questions relating to the existence of an effective domestic remedy and exhaustion of the domestic remedy (Art. 35 § 1)
Latvia	07 Jan. 2010	Žerebkovs no. 19615/03	Alleged violation of Art. 3 – Conditions of detention in Jēkabpils Prison – Alleged violation of Art. 6 § 1 – Infringement of the right of access to a court on account of prison authorities' failure to hand over to the applicant a letter of the Jēkabpils District Court for five days after it was received and the subsequent Jēkapils District Court's refusal to accept the applicant's complaint because of a failure to observe the applicable time-limit
Moldova	06 Jan. 2010	Ciorap no. 32896/07	Alleged violation of Art. 3 – Conditions of detention – Art. 6 – Hindrance to the applicant's right of lodging court actions – Alleged violation of Art. 8 – Hindrance to the applicant's right of having extended family visits after his transfer to prison

			no. 15
Norway	05 Jan. 2010	Agalar no. 55120/09	Alleged violation of Art. 2 – Risk of treatment contrary to this provision if expelled to Iraq **–** Questions relating to whether the applicant has exhausted domestic remedies
Romania	08 Jan. 2010	Kovacs no. 1457/03	Alleged violation of Art. 3 – Conditions of detention and lack of adequate dental care in Rahova and Oradea Prisons – Alleged beating while in detention by members of the special intervention unit wearing masks – Alleged violation of Art. 8 and 34 – Interference with the applicant's right of individual petition and his right to respect for correspondence in Rahova Prison
Romania	07 Jan. 2010	Jarnea no. 41838/05	Alleged violation of Art. 8 § 1 – The applicant's inability to obtain reliable and complete information on his file created by the former *Securitate*
Russia	05 Jan. 2010	Idigov no. 424/08	Alleged violation of Art. 2 – A special operation aimed at arresting the applicant's son took place in May 2003 – Lack of an effective investigation into the abduction of the applicant's missing relative – Alleged violation of Art. 3 – The applicant's mental suffering in connection with the disappearance of his son – Alleged violation of Art. 5 §§ 1-5 – Unlawful detention – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	05 Jan. 2010	Peterin no. 3743/05	Alleged violation of Art. 3 – Conditions of detention in IZ-86/1 – Alleged violation of Article 6 § 3 (c) – Lack of legal representation at appeal hearing
Turkey	04 Jan. 2010	Özmen no. 28110/08	Alleged violation of Art. 8 – Domestic authorities' failure to enforce the decision ordering the return of the applicant's child from Turkey to Australia

Communicated cases published on 1 February 2010 on the Court's Website and selected by the NHRS Unit

The batch of 1 February 2010 concerns the following States (some cases are however not selected in the table below): Armenia, Bosnia and Herzegovina, Finland, France, Georgia, Italy, Latvia, Poland, Portugal, Romania, Russia, Slovakia, Sweden, the Czech Republic, the Netherlands the United Kingdom, Turkey and Ukraine.

State	**Date of communication**	**Case Title**	**Key Words of questions submitted to the parties**
Bosnia and Herzegovina	12 Jan. 2010	Al Hanchi no. 48205/09	Alleged violation of Art. 3 – Risk of being subjected to treatment in breach of this provision if deported to Tunisia
Finland	12 Jan. 2010	Lahtonen no. 29576/09	Alleged violation of Art. 10 § 1 – Infringement of the right to freedom of expression on account of the applicant's conviction for having published publicly available information about a police officer's various offences
Georgia	11 Jan. 2010	Dvali no. 64260/09	Alleged violation of Art. 3 – Conditions of detention – Lack of adequate medical care in detention
Georgia	11 Jan. 2010	Gabedava no. 65063/09	Alleged violation of Art. 2 and 3 – State agencies' failure to take necessary measures required by the positive obligations under this provision to safeguard the applicant's life, physical well-being and health in prison – Has the applicant's medical condition improved as a result of the anti-tuberculosis treatment given to him in prison?
Latvia	14 Jan. 2010	Jegorovs no. 53281/08	Questions relating to whether the applicant had exhausted all domestic remedies (Art. 35 § 1) **–** Alleged violation of Art. 3 – Conditions of detention in Daugavpils prison – Lack of adequate medical care in detention – Lack of an effective investigation into the applicant's alleged contraction of tuberculosis whilst in detention
Poland	12 Jan. 2010	Gąsior no. 34472/07	Alleged violation of Art. 10 – The applicant's conviction for having written letters criticising a former prosecutor and deputy in the Polish Parliament to the Polish television
Poland	12 Jan. 2010	Kurkowski no. 36228/06	Alleged violation of Art. 5 § 3 – Excessive length of pre-trial detention – Alleged violation of Art. 3 – Conditions of detention – Alleged violation of Art. 8 § 1 – Restrictions on the applicant's right to receive visitors in the remand centre See also *Kauczor v. Poland* on the structural problem concerning the excessive length of pre-trial detention in Poland
Romania	12 Jan. 2010	Archip no. 49608/08	Alleged violation of Art. 3 – Ill-treatment by a police officer at Podoleni police station – Lack of an effective investigation
Romania	12 Jan. 2010	Codreanu no. 34513/04	Alleged violation of Art. 3 – Following expulsion from Germany, the Romanian family had been forced by the police into the Bucharest International Airport and allegedly ill-treated – Lack of an effective investigation
Russia	12 Jan.	Dmitriyeva	Alleged violation of Art. 3 – Ill-treatment during arrest – Lack of an effective

	2010	no. 9390/05	investigation – Conditions of detention at police station no. 28 of St Petersburg – Alleged violation of Art. 5 – Unlawful arrest and detention, the applicant's inability to challenge the lawfulness of her detention – Alleged violation of Art. 8 – Search of the applicant's home – Alleged violation of Art. 13 – Lack of an effective remedy in respect of Articles 3, 5 and 8
Russia	13 Jan. 2010	Isayeva and Isayeva no. 311/08	Alleged violation of Art. 2 – Allegedly there was a special operation aimed at arresting the applicants' relative took place in February 2000 – Lack of an effective investigation into the abduction of the applicants' missing relative – Alleged violation of Art. 3 – The applicants' mental suffering in connection with the disappearance of their son and brother – Alleged violation of Art. 5 §§ 1 - 5 – Unlawful detention – Alleged violation of Art. 13 – Lack of an effective remedy
the United Kingdom	12 Jan. 2010	Fox no. 61319/09	Alleged violation of Art. 3 – Ill-treatment by the police officers – Lack of an effective investigation – Questions relating to whether the applicant had exhausted domestic remedies
Turkey	12 Jan. 2010	Acet and Others no. 22427/06	Alleged violation of Art. 2 – Domestic authorities' failure to take the necessary steps to protect the life of the applicants' relative, who committed suicide during his military service – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Ukraine	14 Jan. 2010	Chernaya no. 1661/08	Alleged violation of Art. 2 and 3 – Domestic authorities' failure to conduct an effective investigation into the life-threatening attack on the applicant (she had been hit in the face by a bullet fired from an air-gun) – Alleged violation of Art. 13 – Lack of an effective remedy
Ukraine	12 Jan. 2010	Belyaev and Digtyar nos. 16984/04 and 9947/05	Alleged violation of Art. 3 – Conditions of detention – Lack of adequate medical treatment in the Sumy SIZO – Alleged violation of Art. 8 – Monitoring of the applicants' correspondence – Alleged violation of Art. 34 – Reviewing by the officials of the Romny Prison of the letters of the second applicant addressed to the Court – A partial decision on admissibility is available on HUDOC
Ukraine	12 Jan. 2010	Kaverzin no. 23893/03	Alleged violation of Art. 3 – Alleged torture in the course of the criminal investigations against the applicant – Lack of an effective investigation – Lack of adequate medical treatment in respect of his eye-injury – The applicant's handcuffing at the Dnipropetrovsk Colony No. 89 – A partial decision on admissibility is available on HUDOC

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

Visit by the Slovenian Minister of Justice (10.02.2010)

On 10 February 2010 President Costa welcomed Ales Zalar, the Slovenian Minister of Justice. Erik Fribergh, Registrar, also attended this meeting.

Link to the President's pages

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 2 to 4 March 2010 (the 1078th meeting of the Ministers' deputies). See the Annotated Agenda

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)

***Fédération européenne des Associations nationales travaillant avec les Sans-abri* (FEANTSA) v. Slovenia (Complaint no. 53/2008) (01.02.2010)**

In a decision which became public on 1 February 2010, the European Committee of Social Rights found that reforms of the Slovenian Government in the field of housing have placed tenants in dwellings that were returned to their former private owners in a precarious situation in breach of Article 31 of the Revised Charter.
Summary of Complaint 53/2008
Decision on the merits 53/2008

Seminar in Athens on the role of the European Committee of Social Rights (03.02.2010)

A Seminar on "The role of the European Committee of Social Rights" organised by the International Society of Labour Law and Social Security, was held in Athens. Mr Petros STANGOS, member of the Committee, gave a presentation of the collective complaints procedure, and Mr Régis BRILLAT, Head of the Department of the ESC, spoke of the influence of the Committee on domestic law in the States Parties to the Charter.

Training session for Russian lawyers in Ufa (11.02.2010)

In the framework of a joint programme with the European Union, a seminar for Russian lawyers was held in Ufa (Russian Federation) from 11 to 12 February 2010. On this occasion Ms Ana RUSU of the Department of the European Social Charter, presented the Revised European Social Charter as a completion of the European Convention of Human Rights.
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 15-19 March 2010.

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

Council of Europe anti-torture Committee visits prison on the island of Imralı, Turkey (01.02.2010)

A delegation of the CPT recently completed a two-day visit to Turkey (26 and 27 January 2010). The delegation visited the F-type High-Security Closed Prison on the island of Imralı, in order to examine the conditions under which Abdullah Öcalan (detained on Imralı island since February 1999) and other inmates of the establishment were held. Particular attention was paid to communal activities offered to the prisoners and the application in practice of the prisoners' right to receive visits from relatives and lawyers. All the prisoners were interviewed by the delegation. The visit was carried out following the recent setting-up of a new detention facility on the island and the transfer to that facility of five additional prisoners from other prisons. In the course of the visit, the delegation met Sait Gürlek, Chief Public Prosecutor of Bursa, and Yahya Özkök, Enforcement Judge responsible for Imralı F-type High-Security Closed Prison.

Council of Europe anti-torture Committee visits Ireland (09.02.2010)

A delegation of the CPT carried out a visit to Ireland from 25 January to 5 February 2010. The visit was carried out within the framework of the CPT's programme of periodic visits for 2010 and was the Committee's fifth periodic visit to Ireland.

The delegation assessed progress made since the previous visit in 2006 and the extent to which the Committee's recommendations have been implemented. Particular attention was paid to the conditions of detention of persons in prison, and to the care afforded to patients in psychiatric institutions. The operation of the various safeguards in place in An Garda Síochána (Police) Stations was also examined, and the delegation visited for the first time in Ireland an establishment for the intellectually disabled.

In the course of the visit, the delegation held talks with Dermot AHERN, Minister for Justice, Equality and Law Reform, John MOLONEY, Minister for Equality, Disability and Mental Health at the Department of Health, and Barry ANDREWS, Minister of State with responsibility for Children and Youth Affairs. The delegation also met Brian PURCELL, Director General of Prisons, and other senior government officials from the Ministries of Health and Children and of Justice, Equality and Law Reform, as well as the Garda Ombudsman Commission, the Inspector of Prisons, Judge Michael Reilly, and representatives of the Irish Human Rights Commission. In addition, discussions were held with members of non-governmental organisations active in areas of concern to the CPT.

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

Council of Europe anti-torture Committee publishes report on the Slovak Republic (11.02.2010)

The CPT has published on 11 February the report on its fourth periodic visit to the Slovak Republic, carried out in March/April 2009, together with the response of the Slovak Government. These documents have been made public at the request of the authorities of the Slovak Republic.

The findings of the 2009 visit indicate that there has been an improvement in the treatment of persons deprived of their liberty by law enforcement officials, as compared to the situation found during previous visits to Slovakia by the CPT. However, the delegation did receive a number of complaints concerning remarks of a racist nature and several allegations of physical ill-treatment of detained persons by police officers. The CPT has recommended that the Slovak authorities improve the effectiveness and independence of investigations into allegations of police ill-treatment. The report also 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 Committee's standards. In their response, the Slovak authorities provide inter alia information on the training received by police officers in respect of apprehension techniques.

As regards the detention centres for foreigners visited in Medved'ov and Sečovce, the CPT gives an overall positive assessment. They recommended that the programme of activities offered to foreigners be developed. The report also expresses concern over the unregulated nature of the "separation regime" in place for the seclusion of certain detainees and the lack of appropriate safeguards surrounding that regime. According to the authorities' response, an alien is placed under a separation regime in circumstances determined by law and for a period of time which is reasonably necessary.

On prison matters, the Committee criticises the practice of collective strip searches and the use of dogs for routine prison duties involving inmates. As for the situation of life-sentenced prisoners, the report notes that certain measures have been taken to improve the detention regime of these persons, most notably by the introduction of an internal differentiation aimed at mitigating the standard regime. It would appear that this development has yet to be fully implemented; the regime afforded to the vast majority of life-sentenced prisoners remained impoverished. The conditions of prisoners held in the High-Security Department in Leopoldov Prison is another issue of concern for the CPT. The Committee observed that the High Security Department is limited to providing a secure setting, while the majority of prisoners it accommodates appear to be in need of psychiatric care. The Slovak authorities' response states inter alia that the provision of the Ilava Prison internal regulations authorizing the use of service-dogs during evening head-counts has been repealed. As regards the High Security Department in Leopoldov, the authorities indicate that most prisoners held in this Department do not require psychiatric care as they are affected by personality disorders.

The Committee also visited the psychiatric ward at Trenčin Prison Hospital. The report highlights that patients placed in the protective psychiatric treatment unit and those receiving protective treatment for substance abuse benefit from a full programme of activities, whereas the regime offered to patients in the unit for acute psychiatric conditions is poor. In their response, the authorities state that prisoners of different guarding levels and categories are treated at the unit for acute psychiatric conditions, and

that the daily activities offered to such prisoners depend on their physical state and the medication that has been administered to them. For this reason, it is not possible to organise group activities.

C. European Commission against Racism and Intolerance (ECRI)

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

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E. Group of States against Corruption (GRECO)

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

Mutual evaluation report on Serbia public (12.02.2010)

The 3rd round evaluation report on Serbia, as adopted at MONEYVAL's 31st Plenary meeting (7-11 December 2009), is now available for consultation.
Executive Summary
Mutual evaluation report
Annexes - Part 1
Annexes - Part 2

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

Monitoring the Convention: First evaluation round

In accordance with Article 36 paragraph 1 of the Council of Europe Convention on Action against Trafficking in Human Beings [CETS No.197], GRETA "shall monitor the implementation of this Convention by the Parties". Pursuant to Article 38 paragraph 1 of the Convention and Rules 1 and 2 of the Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties, GRETA shall evaluate the implementation of the Convention by the parties following a procedure divided in rounds. GRETA decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

The questionnaire for the first evaluation round shall be sent to all the parties to the Convention (26 parties as at 1 February 2010) in accordance with the timetable set out in the appendix to document GRETA (2010)1.

In accordance with Rule 5 of the Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties, the "contact person" appointed by the party concerned to liaise with GRETA shall receive the Questionnaire for the first round of the evaluation of the implementation of the Convention by the parties, adopted by GRETA. The "contact person" shall be responsible for distributing the Questionnaire to the different national bodies concerned, co-ordinating their replies and submitting to GRETA a consolidated version of the official reply to the Questionnaire.

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

Part IV: The inter-governmental work

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

1 February 2010

Norway ratified the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196).

3 February 2010

Estonia signed the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).

5 February 2010

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

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/Rec(2010)2E / 03 February 2010

Recommendation of the Committee of Ministers to member states on deinstitutionalisation and community living of children with disabilities (Adopted by the Committee of Ministers on 3 February 2010 at the 1076th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Meeting of Ministers' Deputies: exchange of views on Georgia (04.02.2010)

On 3 February, the Ministers' Deputies held an exchange of views with Temur Yakobashvili, Minister for Reintegration issues of Georgia, on the "State Strategy of the Government of Georgia on the occupied territories of Georgia: Engagement through co-operation". They also took note of a report on a visit to Armenia and Azerbaijan.

Council of Europe calls for deinstitutionalisation of children with disabilities (04.02.2010)

On 3 February, the Committee of Ministers adopted a text recommending that member States should no longer place children with disabilities in institutional care and instead give preference to community living. There are many concerns about the compatibility of institutional care with the exercise of children's rights.

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*

PACE co-rapporteurs: Armenian authorities need to implement recommended reforms without further delay (02.02.2010)

“The Armenian authorities need to implement the reforms recommended by the ad hoc Committee of the National Assembly of Armenia on the events of 1 and 2 March 2008, without further delay,” concluded the co-rapporteurs of PACE, John Prescott (United Kingdom, SOC) and Georges Colombier (France, EPP/CD), following an exchange of views in the PACE Monitoring Committee. “The reforms recommended by the ad hoc Committee, in combination with those contained in the relevant PACE resolutions, if implemented in good faith, could comprehensively address the circumstances that led to the events of 1 and 2 March 2008,” the co-rapporteurs said. They stressed that these recommendations therefore needed to be implemented without further delay, especially those related to the reform of the police - including the establishment of an independent oversight and complaints body - and the long overdue reform of the electoral code. The co-rapporteurs announced that they would send a letter to the Armenian Parliament asking it to provide the Monitoring Committee, before its meeting on 17 March 2010 in Paris, with a clear timetable for these reforms. “On the basis of the discussions in the Monitoring Committee we will then visit Yerevan this spring to discuss the establishment of a clear roadmap for the implementation of these reforms,” the co-rapporteurs said.

In addition to the roadmap, the co-rapporteurs also intend to raise the issue of the sentencing of Nikol Pashinian as well as other cases where they have sought clarification from the authorities. “A number of issues following the events of 1 and 2 March still need to be clarified and addressed”, the co-rapporteurs said, stressing the continuing importance and need for the monitoring of political developments by the Assembly and other relevant bodies of the Council of Europe.

Run-off confirms that Ukraine's presidential election meets most international commitments (08.02.2010)

Ukraine's run-off presidential election confirmed the international election observation mission's assessment that the electoral process met most OSCE and Council of Europe commitments.

In a statement issued on 8 February, the observers noted that the election consolidated progress achieved since 2004. But they also concluded that the lack of mutual trust between the candidates and the deficient legal framework were at the root of the problems observed and constitute an immediate challenge for the new leadership. The professional, transparent and honest voting and counting should serve as a solid foundation for a peaceful transition of power.

"Yesterday's vote was an impressive display of democratic elections. For everyone in Ukraine, this election was a victory. It is now time for the country's political leaders to listen to the people's verdict and make sure that the transition of power is peaceful and constructive," said João Soares, President of the OSCE Parliamentary Assembly and Special Co-ordinator of the OSCE short-term observers.

"Some say the Orange Revolution has failed. I say no. Thanks to the Orange Revolution, democratic elections in Ukraine are now a reality," said Matyas Eörsi, Head of the delegation of the Council of Europe's Parliamentary Assembly.

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

"The pessimistic scenarios put forward before Election Day were proven wrong by the overwhelmingly efficient and non-partisan manner in which election commissions performed yesterday and by the high turnout. Ukraine is setting a pattern of democratic elections. The Ukrainian people, who have shown their commitment to a democratic electoral process, now deserve a peaceful transition of power," said Assen Agov, Head of the delegation of the NATO Parliamentary Assembly.

"Any functioning democracy needs not only to focus on the Election Day itself. What it also needs is a wider legal framework guaranteeing the transparency of the political process including the financing of political parties and candidates," said Pawel Kowal, Head of the delegation of the European Parliament.

"This has been a well-administered and truly competitive election offering voters a clear choice. It will now be crucial to establish unambiguous rules and close the gaps in the law well in advance of any new election in order to avoid the uncertainties that marked this election," said Heidi Tagliavini, Head of the election observation mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

"We can now see light at the end of the tunnel," says Christos Pourgourides, at the end of his visit to Russia (10.02.2010)

Christos Pourgourides (Cyprus, EPP/CD), rapporteur of PACE on the implementation of judgments of the Court, has ended a visit to Moscow (7-10 February 2010) with a call to the Russian authorities to make a renewed effort to speedily implement Strasbourg Court judgments, notably those relating to repetitive and structural violations, as well as grave human right violations.

Mr Pourgourides noted that "the need for effective remedies against non-enforcement of domestic judicial decisions, the reform of the *nadzor* system and the excessive length of pre-trial detention are all at long-last being tackled in an appropriate fashion. We can now see the light at the end of the tunnel. But, to my regret, the same cannot be said with respect to the findings, by the Strasbourg Court, of serious violations of the European Convention in the Chechen Republic".

Mr Pourgourides urged, in particular, his fellow parliamentarians in the State Duma and Federation Council to establish - within the Russian Parliament - specific procedures to regularly monitor the implementation of the judgments of the European Court of Human Rights. He was assured that this proposal would be given top priority.

During his visit, Mr Pourgourides met with parliamentarians from both Houses of Parliament, the Chairman of the Supreme Court, representatives of the Justice, Interior, Foreign Affairs and Finance Ministries, as well as the Presidential Administration. Meetings were also held at the Prosecutor General's Office as well as with NGO's and practising lawyers.

This is the fifth in a series of visits by the same rapporteur aimed at mobilising parliamentary support in states where delays and other, often serious, difficulties in implementing the Strasbourg Court's judgments have arisen. Mr Pourgourides has previously undertaken visits to Bulgaria, Greece, Italy and Ukraine, and will shortly go to Moldova, Romania and Turkey.
Progress report
Addendum to the progress report

Monitoring visit by PACE rapporteurs to Azerbaijan (10.02.2010)

Joseph Debono Grech (Malta, SOC) and Andres Herkel (Estonia, EPP/CD) started on 9 February a fact-finding visit to Azerbaijan in view to finalise their report on the honouring of obligations and commitments by Azerbaijan vis-à-vis the Council of Europe. In Ganja on 9 February, they met with representatives of local authorities, the Prosecutor, the Chair of Appeal Court and the Chief of Police.

Talks were scheduled on 10 and 11 February in Baku, with, among others, the President of the Republic, Speaker of Parliament, Ministers of Justice and National Security, the Prosecutor General and the Chairman of the Central Electoral Commission. The co-rapporteurs also met with medias representatives, the Ombudsperson and members of the Azerbaijani delegation to PACE.

"The Assembly will provide full support to achieve the necessary reforms in Turkey," said PACE President (11.02.2010)

Shortly after his election as PACE President, Mevlüt Çavusoglu met the President of Turkey, Abdullah Gül, the President of the Turkish Parliament, Mehmet Ali Sahin, and the Turkish Minister for EU

Affairs, Egemen Bagis. M. Çavusoglu thanked them for their support and welcomed major reforms implemented in Turkey. "I am convinced that these reforms will continue successfully. The Assembly will assist Ankara in achieving the necessary reforms," said PACE President, who, at the same time, has asked Turkey to support the process of reforms undertaken in the Council of Europe.

PACE President and Georgian Speaker: "Mutual goodwill and the intention to co-operate" (11.02.2010)

During their official visit to Turkey, the Speaker of the Georgian Parliament, David Bakradze and his parliamentary delegation met with PACE President Mevlüt Çavusoglu in Ankara on 9 February. Mutual goodwill and the intention to co-operate were at the heart of their discussions, the PACE President said. Mr Çavusoglu also announced that he was very pleased to accept the official invitation by the Georgian Speaker to visit Georgia.

- *Themes*

Belarus - death penalty: PACE President welcomes creation of a parliamentary working group (04.02.2010)

Mevlüt Çavusoglu, President of welcomed on 4 February the creation, by the Belarus parliament, of a working group "on the issue of death penalty as an instrument of punishment" composed by members of both chambers.

He encouraged the working group to examine experience of Council of Europe member states in this field as it showed that there were no valid reasons to maintain the death penalty. "This is a positive step in the right direction. PACE stands ready to assist the Belarus parliament in this process," he said. On 23 June 2009, PACE asked its Bureau not to lift the suspension of the Belarus Parliament's special guest status until such time as a moratorium on executions has been introduced by the appropriate Belarus authorities.

"There is no honour in so-called 'honour crimes'", says the Chairperson of the PACE Committee on Equal Opportunities (10.02.2010)

"I am appalled and outraged by the murder of a 16-year-old girl recently committed in Turkey, in the name of so-called 'honour'", said José Mendes Bota (Portugal, EPP/CD), Chairperson of the Committee on Equal Opportunities for Women and Men of PACE, speaking on 10 February.

"The torture suffered by this young girl, buried alive, is intolerable. There is no honour in so-called 'honour crimes', and no tradition or culture can invoke any kind of honour to violate women's fundamental rights", he added. "As recommended by the Assembly in a resolution and a recommendation adopted in 2009, a stop must be put to these crimes and urgent practical measures taken, including reform of the laws to provide potential victims with effective protection and severe punishment of the perpetrators", Mr Mendes Bota concluded.

The Committee Chairperson announced that he would, on 22 February, be asking the committee of experts responsible for drafting the future Council of Europe convention on preventing and combating violence against women and domestic violence (CAHVIO) to make so-called "honour crimes" a specific offence under the convention.

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

A. Country work

Greece: Commissioner Hammarberg welcomes initial steps to improve refugee policy, police conduct and minority rights - and urges determined implementation (11.02.2010)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, concluded on 10 February a three-day visit to Greece during which he held discussions with a number of authorities including the Vice-President of the Government, the Minister of Justice and the Minister of Citizen Protection. He also met with national, international and non-governmental organisations. The Commissioner welcomed the willingness of the Greek government to tackle long-standing, structural problems in the field of asylum and police misconduct.

See the Report following the Commissioner's visit to Greece (8-10 December 2008) - Issue reviewed: Human rights of asylum seekers and the Report following the Commissioner's visit to Greece (8-10 December 2008) - Issue reviewed: Human rights of minorities

Bulgaria: "Minorities and children must be better protected" recommends Commissioner Hammarberg (09.02.2010)

"More efforts are needed to better protect minorities and children and to ensure that their needs are embedded in the decision making process", said Thomas Hammarberg, the Council of Europe Commissioner for Human Rights. He published on 9 February a report on his visit to Bulgaria carried out in November 2009 to assess progress on the protection of the rights of minorities and disadvantaged children. "Protection of minorities against discrimination, racism and intolerance should be enhanced" he said, recommending a legislative amendment to make racist motivation an aggravated circumstance for all offences.*

Read the report

B. Thematic work

"Criminalising migration is the wrong answer to a complex social phenomenon" says Commissioner Hammarberg (04.02.2010)

"Criminalising the irregular entry and presence of migrants in Europe corrodes established international law principles and causes many human tragedies without achieving its purpose of genuine control" said Thomas Hammarberg, the Council of Europe Commissioner for Human Rights, presenting in Brussels an Issue Paper on this topic on 4 February. "I have observed with increasing concern this trend as part of a policy of migration management" he said.

Read the Issue Paper

"The Strasbourg Court is a source of hope for many – its continued effective functioning must be guaranteed" says Commissioner Hammarberg (08.02.2010)

"The Strasbourg Court is essential to sustain the European system of human rights protection. Further measures are therefore needed to reinforce its functioning and to ensure that member states implement its decisions", said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his latest Viewpoint. "The Court's decisions have concrete effects on peoples' lives and governments should give a higher priority to their implementation.

Read the Viewpoint

Commissioner Hammarberg visits Kosovo* to assess the situation of forced returnees (10.02.2010)

Several European governments are forcibly returning to Kosovo persons who have found shelter in their countries. To assess the situation, Thomas Hammarberg, the Council of Europe Commissioner for Human Rights, visited Kosovo from 11 to 13 February. According to UN statistics more than 2 500 persons have been returned from European countries during 2009, mainly from Austria, Germany, Sweden and Switzerland.

https://wcd.coe.int/ViewDoc.jsp?id=1582693&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACEReport of the Council of Europe Commissioner for Human Rights' Special Mission to Kosovo (23-27 March 2009)

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

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

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

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