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

(“Peer-to-Peer II Project”)

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

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TABLE OF CONTENTS

INTRODUCTION	4
PART I : THE ACTIVITIES OF THE EUROPEAN COURT OF HUMAN RIGHTS	5
A. Judgments	5
1. Judgments deemed of particular interest to NHRs	5
2. Other judgments issued in the period under observation	13
3. Repetitive cases	14
4. Length of proceedings cases	15
B. The decisions on admissibility / inadmissibility / striking out of the list including due to friendly settlements	15
C. The communicated cases	19
D. Miscellaneous (Referral to grand chamber, hearings and other activities)	21
PART II : THE EXECUTION OF THE JUDGMENTS OF THE COURT	22
A. New information	22
B. General and consolidated information	23
PART III : THE WORK OF OTHER COUNCIL OF EUROPE MONITORING MECHANISMS	24
A. European Social Charter (ESC)	24
B. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)	25
C. European Commission against Racism and Intolerance (ECRI)	25
D. Framework Convention for the Protection of National Minorities (FCNM)	25
E. Group of States against Corruption (GRECO)	25
F. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)	25
G. Group of Experts on Action against Trafficking in Human Beings (GRETA)	25
PART IV: THE INTER-GOVERNMENTAL WORK	26
A. The new signatures and ratifications of the Treaties of the Council of Europe	26
B. Recommendations and Resolutions adopted by the Committee of Ministers	26
C. Other news of the Committee of Ministers	26
PART V: THE PARLIAMENTARY WORK	28

A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe 28

B. Other news of the Parliamentary Assembly of the Council of Europe 28

PART VI : THE WORK OF THE OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS32

A. Country work..... 32

B. Thematic work..... 32

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)33

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 NHRSSs 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 NHRSSs. A particular effort is made to render the selection as targeted and short as possible.

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

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

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

We invite you to read the [INFORMATION NOTE No. 127](#) (provisional version) on the Court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases which the Jurisconsult, the Section Registrars and the Head of the aforementioned Division examined in February 2010 and sorted out as being of particular interest.

A. Judgments

1. Judgments deemed of particular interest to NHRs

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 NHRs. 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 NHR Unit, is based on the [press releases of the Registry of the Court](#).

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Right to life**

[Lütfi Demirci and Others v. Turkey](#) (no. 28809/05) (Importance 2) – 2 March 2010 – Violation of Article 2 (positive obligation) – State authorities' failure to take appropriate measures to protect the applicants' relative's life

The applicants are the father, mother, brothers and sisters of Mr Atalay Demirci, who committed suicide on 6 January 2003 while carrying out his military service. The applicants alleged that the authorities had not taken sufficient measures which could have prevented the suicide of their relative, who had a medical history of psychological problems and had been prescribed anti-depressants. The Court unanimously held that the State authorities had not taken appropriate measures to prevent the applicants' close relative's death, in breach of Article 3.

- **Ill-treatment**

[Al-Saadoon & Mufdhi v. the United Kingdom](#) (no. 61498/08) (Importance 1) – 2 March 2010 – Violation of Article 3 – The transfer of two Iraqi nationals by the British authorities to Iraqi

custody put them at real risk of execution by hanging – No violation of Article 6 – At the date of transfer, it had not been established that the applicants risked a flagrantly unfair trial before the IHT – Violation of Articles 13 and 34 – Authorities’ failure to comply with the Court’s indication and the transfer of the applicants out of the United Kingdom’s jurisdiction had exposed them to a serious risk of grave and irreparable harm thus nullifying the effectiveness of any appeal

The applicants, Sunni Muslims from southern Iraq and former senior officials of the Ba’ath party, were accused of involvement in the murder of two British soldiers shortly after the invasion of Iraq in 2003. They complained that their transfer by the British authorities into Iraqi custody put them at real risk of execution by hanging. They are currently detained in Rusafa Prison, near Baghdad. The applicants were arrested by British forces and detained in British-run detention facilities as they were suspected of having orchestrated violence against the coalition forces. In October 2004 the UK’s Royal Military Police concluded that applicants had been involved in the deaths of two British soldiers ambushed and murdered in southern Iraq on 23 March 2003.

In August 2004 the Iraqi National Assembly reintroduced the death penalty to the Iraqi Penal Code in respect of certain violent crimes, including murder and certain war crimes.

In December 2005 the British authorities decided to refer the murder case against the applicants to the Iraqi criminal courts. In 2006 the applicants appeared before the Basra Criminal Court on charges of murder and war crimes. The Basra Criminal Court decided that the allegations against the applicants constituted war crimes and therefore fell within the jurisdiction of the Iraqi High Tribunal (“IHT”: a court set up under Iraqi national law, to try Iraqi nationals or residents accused of genocide, crimes against humanity and war crimes allegedly committed during the period 17 July 1968 to 1 May 2003). In December 2007 the IHT formally requested the British forces to transfer the applicants into its custody.

In June 2008, the applicants brought judicial review proceedings in England challenging the legality of their transfer. The English Divisional Court declared in December 2008 the proposed transfer lawful. The court held that under public international law the UK was obliged to surrender the applicants unless there was clear evidence that the receiving State intended to subject them to treatment so harsh as to constitute a crime against humanity. It found no substantial grounds for believing there to be a real risk that, on being transferred, a trial against the applicants would be flagrantly unfair or that they would face torture and/or inhuman and degrading treatment. While, on the other hand there was a real risk that the death penalty would be applied if the applicants were surrendered to the Iraqi authorities, the death penalty in itself was not prohibited by international law.

The applicants’ appeal was refused in December 2008 as the Court of Appeal found that there was a real risk that the applicants would be executed if transferred, but it concluded that the UK was not exercising jurisdiction because it was detaining the applicants on Iraqi territory and on the orders of the Iraqi courts. The Convention did not apply and the UK had to respect Iraqi sovereignty and transfer the applicants. Immediately after that decision, the applicants applied to the Court to prevent the British authorities from making the transfer. On 30 December 2008 the Court indicated to the UK Government that the applicants should not be removed or transferred from their custody until further notice. The following day the UK Government informed the Court that, principally because the UN Mandate, which authorised the role of British forces in arrest, detention and imprisonment tasks in Iraq, was due to expire at midnight on 31 December 2008, exceptionally they could not comply with the measure indicated by the Court and that they had transferred the applicants to Iraqi custody earlier that day. In February 2009 the applicants were refused leave to appeal by the House of Lords.

The applicants’ trial before the IHT ended in September 2009 with a verdict cancelling the charges against them and ordering their immediate release. Upon an appeal by the prosecutor, the Iraqi Court of Cassation remitted the case for further investigation by the Iraqi authorities and for a retrial. The applicants remain in custody.

The applicants complained about their transfer to Iraqi custody. They also complained about the fact that they were transferred to the Iraqi authorities despite the Court’s indication under Rule 39 of its Rules of Court.

Jurisdiction

The Court adopted on 30 July 2009 a decision on the admissibility of the applicants’ complaints in which it considered that the United Kingdom authorities had had total and exclusive control, first through the exercise of military force and then by law, over the detention facilities in which the applicants were held. The Court found that the applicants had been within the UK’s jurisdiction and had remained so until their physical transfer to the custody of the Iraqi authorities on 31 December 2008.

The death penalty as inhuman and degrading treatment

The Court emphasised that the death penalty, which involved the deliberate and premeditated destruction of a human being by the State authorities, causing physical pain and intense psychological suffering as a result of the foreknowledge of death, could be considered inhuman and degrading and, as such, contrary to Article 3 of the Convention. The Court accepted the findings of the national courts which had concluded, shortly before the physical transfer took place, that there were substantial grounds for believing there to be a real risk of the applicants' being condemned to the death penalty and executed. It further observed that the Iraqi authorities had still not given any binding assurance that they would not execute the applicants. Moreover, while it was impossible to predict the outcome of the new investigation and trial ordered by the Iraqi courts, there were still substantial grounds for believing that the applicants would run a real risk of being sentenced to death if tried and convicted by an Iraqi court. The death penalty had been reintroduced in Iraq in August 2004. Nonetheless, and without obtaining any assurance from the Iraqi authorities, the UK authorities had decided in December 2005 to refer the applicants' case to the Iraqi courts and in May 2006 proceedings commenced in the Basra Criminal Court. The Court considered that from that date at least the applicants had been subjected to a well-founded fear of execution, giving rise to a significant degree of mental suffering, which must have intensified and continued from the date they were physically transferred into Iraqi custody. The Court was not satisfied that the need to secure the applicants' rights under the Convention inevitably required a breach of Iraqi sovereignty. It did not appear that any real attempt was made to negotiate with the Iraqi authorities to prevent the risk of the death penalty. Moreover, the evidence showed that the Iraqi prosecutors initially got "cold feet" about bringing the case themselves, because the matter was "so high profile". This could have provided an opportunity to seek the consent of the Iraqi Government to an alternative arrangement involving, for example, the applicants being tried by a UK court, either in Iraq or in the UK. It does not appear that any such solution was ever sought. The Court concluded that the applicants had been subjected to inhuman and degrading treatment, in violation of Article 3.

Fair trial

The Court accepted the national courts' finding that, at the date of transfer, it had not been established that the applicants risked a flagrantly unfair trial before the IHT. Now that the trial had taken place, there was no evidence before the Court to cast doubt on that assessment. It followed that there had been no violation of Article 6.

Right to individual petition and to an effective remedy

The Government had not proved to the Court that they had taken all reasonable steps, or indeed any steps, to seek to comply with the Court's Rule 39 indication not to transfer the applicants to Iraqi custody. They had not informed the Court, for example, of any attempt made after the Court's indication and before the transfer took place to explain the situation to the Iraqi authorities or to reach a temporary solution which would have safeguarded the applicants' rights until the Court had completed its examination of the case. The failure to comply with the Court's indication and the transfer of the applicants out of the United Kingdom's jurisdiction had exposed them to a serious risk of grave and irreparable harm and had unjustifiably nullified the effectiveness of any appeal to the House of Lords. The Court therefore found violations of Articles 13 and 34 of the Convention.

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

- **Right to a fair trial**

Adamkiewicz v. Poland (no. 54729/00) (Importance 1) – 2 March 2010 – Violation of Article 6 § 3 c) taken in conjunction with Article 6 § 1 – Restriction on the applicant's (a minor) defence rights – Violation of Article 6 § 1 – Lack of impartiality of the court

The applicant was born in 1982 and was 15 years old at the material time. On 4 December 1997 the applicant was arrested at home and taken to the police station for questioning in connection with the murder of M.S., a 12-year-old boy whose body had been found that day near the block where he lived. The applicant was questioned for about five hours, during which he first denied any involvement in the murder and later admitted to strangling M.S. with a rope. The applicant was brought before a family-affairs judge, who decided to place him in a children's home for the duration of the proceedings and also assigned him a defence lawyer. The latter made three unsuccessful requests to meet his client. On 23 December 1997 the family-affairs judge questioned the applicant in the absence of his lawyer. Mr Adamkiewicz maintained his initial statements. In January 1998 – some six weeks after his arrest – the applicant had his first meeting with his defence lawyer at the children's home in presence of member of staff of the care home. During that meeting the lawyer informed him of his right to remain silent and not to incriminate himself. The applicant was questioned on two further occasions by the family-affairs judge in the absence of his lawyer. He maintained his earlier statements on the first occasion and refused to answer questions during the second. The lawyer made two further attempts

to see his client, the first of which failed as he refused to meet the applicant in the presence of a judge, and the second of which was refused on grounds of a formal error. On 29 October 1998 the children's court found the applicant guilty of the offence and ordered his placement in a reformatory for six years. It found that, despite exercising his right to remain silent, the applicant had admitted committing the offence during his interviews with the police and the family-affairs judge, which had been properly conducted. In December 1998 the lawyer sought to have the judgment set aside on grounds of major procedural flaws in the case. He referred to the restrictions placed on his right to communicate freely with his client, non-compliance with statutory safeguards for minors and the fact that the judgment had been based on unlawfully obtained evidence. His appeal was dismissed on 26 March 1999. Whilst acknowledging irregularities regarding the rights of the defence, the court held that these had not had a decisive effect on the content of the judgment. It also held that even if the applicant's statements to the police should not have been admitted as they had not been duly recorded in a transcript, the court was not required to set aside the judgment having regard to the other evidence adduced (subsequent statements by the applicant before the family-affairs judge, supported by other evidence such as eyewitness and expert testimonies). In September 1999 an appeal by the applicant to the Court of Cassation was dismissed.

The applicant complained of the restrictions placed on the exercise of his defence rights during the investigation and of the fact that the statements he had made then to the police had been admitted at the trial. He also complained that the judge who had directed the disputed investigation had also sat on the bench that examined his case.

The Court reiterated the rule that where the case concerned a minor, the courts were required to act in accordance with the principle that the best interests of the child should be protected. The applicant had not been informed by his lawyer of his right to remain silent until six weeks after the proceedings had begun and he had been placed in a children's home, after several unsuccessful attempts by his lawyer to meet him. The authorities had therefore obtained his incriminating admissions before he had even been informed of that right. Given his age, it could not be asserted that the applicant knew of his right to seek legal representation and of the consequences of his failure to do so, whereas it was crucial for him, isolated in a children's home as he had been during the decisive period of the investigation, to have broad access to a lawyer from the very beginning of the proceedings. The Court therefore held that the considerable restrictions on the applicant's defence rights had amounted to a violation of Article 6 § 3 (c) taken in conjunction with Article 6 § 1.

Regarding the impartiality of the children's court, it was not disputed that the issue on which the family-affairs judge had ruled during the investigation coincided in large measure with the question on which he had subsequently had to rule as president of the trial bench. During the investigation he had made broad use of the extensive powers available to him under the Procedure Act applicable to minors, ordering of his own motion the opening of the proceedings and directing the evidence-gathering operations following which he had decided to commit the applicant for trial. Whilst it was not the Court's task to rule on domestic legislation and practice in the necessarily specific area of juvenile justice, it examined the manner in which these had been applied to the applicant. In that context it did not see how the same judge's presence on the trial bench could contribute to ensuring maximum protection of the best interests of the child that the applicant had then been. The Court concluded that there had been a violation of Article 6 § 1.

- **Freedom of expression**

[Antica and Company R v. Romania](#) (no. 26732/03) (Importance 2) – Violation of Article 6 § 1 – Domestic courts' failure to give sufficient reasoning for declaring the first applicant as responsible for writing an incriminating article – Violation of Article 10 – Infringement of the second applicant's (a company) right to freedom of expression by holding it liable for publishing an article concerning State's property through the granting of direct loans to companies

The applicants are Mr Antică and the public company "R", a publishing house which has its registered office in Bucharest and which employed Mr Antică as a photo-journalist at the material time. In January 1999 the newspaper *Romania liberă* published an article on a case that was receiving considerable media coverage in Romania at the time, namely the "Megapower" case, in which several politicians and senior officials were implicated in the bankruptcy of an American company to which the Romanian State had made financial contributions. In March 1999, R.D., whose role had been particularly questioned in the article, made a criminal complaint to the prosecutor's office at the Bucharest Court of First Instance, accusing the signatories of the article and the editor-in-chief of *Romania liberă* of insult and slander. In March 2002 the Bucharest Court of First Instance acquitted the first applicant of the criminal charges but found him civilly liable and ordered him to pay R.D. 100,000,000 former Romanian lei in damages. The applicant company was held civilly liable, jointly

with the first applicant, whom it employed. The applicants appealed unsuccessfully against that judgment.

The applicants alleged, in particular, that the courts had not examined their case fairly and complained of the excessive length of the criminal proceedings; they alleged that the fact of being found civilly liable had been an unjustified and disproportionate infringement of their freedom of expression.

Article 6 § 1

The Court reiterated that while it was not its task to take the place of the competent national authorities, it had to review under Article 11 whether the decisions they delivered in the exercise of their power of appreciation complied with the requirements of Article 6. The Court noted that the Bucharest court had not explained its reasons for setting aside a finding by the prosecutor's office that the first applicant was not the author of the article and that it had not ruled on the evidence for Mr Antică's lack of liability. Thus, reasons had not been given for holding him liable, or for finding the applicant company liable, a decision that had resulted from the former finding. The Court concluded that there had been a violation of Article 6.

Article 10

It was not for the Court to determine whether the first applicant was indeed the author of the article and whether there had been a violation of Article 10 with regard to Mr Antică. Nonetheless, as the applicant company's responsibility for publishing the article had not been contested, the Court examined whether there had been a breach of the latter's freedom of expression. The interference in the applicant company's right to freedom of expression, which was what the County Court's decision in its case amounted to, had been in accordance with the law (civil liability in tort). As to whether this interference had been necessary in a democratic society, the Court noted that the disputed article concerned a subject of general interest, namely the management of the State's property through the granting of direct loans to companies. In addition, the decision to find the applicant company civilly liable had not been based on its responsibility as publisher, but on its status as employer, since it had been explained solely by the finding, itself unjustified, that Mr Antică was liable. Finally, the Court noted that the amount of damages represented thirty times the average monthly salary in Romania at the relevant time and was three times higher than the maximum sum imposable as the fine for the criminal offence of defamation. The Court concluded that there had been a violation of Article 10 in respect of the applicant company.

- **Risk of death or ill-treatment in the case of deportation**

R. C. v. Sweden (no. 41827/07) (Importance 2) – 9 March 2010 – Violation of Article 3 – The applicant's deportation to Iran would give rise to a violation of this Article

The applicant, R.C., is an Iranian national who arrived in Sweden in October 2003 and requested asylum. He submitted that he had taken part in a demonstration in July 2001 criticising the Iranian government following which he had been arrested and tortured and detained for almost two years before he managed to escape. He left the country illegally, hidden in a lorry. He had never been formally tried in court but every third month during his detention there had been a sort of religious trial where he had been put before a priest who had decided on his continued imprisonment. During an investigation conducted into his asylum application by the Migration Board in June 2004, R.C. maintained his story and added some new elements. In particular he submitted that during one of the "religious trials" by a revolutionary court in front of many people, he managed to escape having changed into civilian clothes in the court's bathroom. Following his escape, his father and wife had been questioned by the police about his whereabouts. R.C. also submitted that he had never been a member of a political party and never formally charged or convicted of any crime and that he was convinced he would be executed if he returned home. In addition, the applicant claimed that he suffered from headaches, sleeplessness, depression and panic attacks as a result of the torture he had been subjected to in the Iranian prison. He provided a medical certificate of February 2005 carrying the doctor's conclusion that the injuries found on his body could well originate from torture. The national authorities doubted the credibility of his account of events, underlining that revolutionary courts were generally not open to the public, that the applicant had not substantiated his allegations and that there was no proof that he would be tortured or ill-treated if he returned to Iran. His asylum application was refused.

Following a request by the applicant, the Court indicated to the Swedish Government under Rule 39 (interim measures) of its Rules of Court that he should not be deported until further notice. In November 2007, the Migration Board stayed the enforcement of the deportation order against the applicant until further notice. Several organisations reporting on the situation in Iran noted an increase in human rights violations in Iran after the 2009 elections, including excessive police force, arbitrary arrests, killings, ill-treatment of detainees and the use of torture to obtain confessions. The

Parliamentary Assembly of the Council of Europe adopted a resolution in 2009 in which it urged the Iranian authorities not to use violence during peaceful demonstrations and called upon governments of other countries not to expel Iranian citizens to Iran.

The applicant alleged that, if deported to Iran, he would be at real risk of being arrested, ill-treated and tortured.

The Court found that the applicant's basic story had been consistent throughout the proceedings. Although there had been uncertain aspects of it, such as his account as to how he had escaped from prison, its overall credibility had not been undermined. The Court also accepted the general conclusions of the medical report that the marks of injuries found on R.C.'s body could have originated from torture. If the authorities had had any doubts in that respect they should have organised an expert report into the matter. The Court further noted that Iranian authorities detained not only political leaders or other high profile persons. Anyone who demonstrated or in any way opposed the regime also risked being detained and tortured in Iran. The Court found that the applicant had substantiated his claim that he had been detained and tortured by the Iranian authorities following a demonstration in July 2001. According to information available from independent international sources Iranians returning to their home country and not being able to prove that they had left the country legally ran a particularly high risk of attracting the authorities' attention. The applicant had claimed to have left Iran illegally and that had not been disputed by the Government. Consequently, it was likely that his past be revealed if he returned to Iran and that he be detained and ill-treated. Accordingly, the Court found by six votes to one that if the applicant were deported to Iran the Swedish authorities would be violating Article 3. Judge Fura expressed a separate dissenting opinion, which is annexed to the judgment.

- **Protection of property**

[Patrikova v. Bulgaria](#) (no. 71835/01) (Importance 2) – 4 March 2010 – Three violations of Article 1 of Protocol No. 1 – Unlawfulness of the domestic tax authorities' seizure of the applicant's merchandise and decision to retain it, eventually declaring it abandoned – Violation of Article 6 – Excessive length of civil proceedings

The applicant, a sole trader at the material time, formerly traded in alcohol and tobacco, considered excise duty products under Bulgarian tax law. Following an inspection by Razgrad tax authority in June 2000, merchandise worth the equivalent of 150,000 euros (EUR) was seized, including a significant quantity of tobacco and 98,502 bottles of alcohol. On 27 June 2000 the tax authority issued the applicant with a fine of 221,139 Bulgarian leva (approximately EUR 115,000) on the ground that she only had a trading license and should have obtained a separate license for storage of excise duty products. That decision was ultimately quashed in October 2001 on the ground that the relevant law did not require separate storage licenses. That decision was upheld in January 2002. Criminal proceedings brought against the applicant for various tax offences, including tax evasion, illicit trading in excise goods and forged tax labels were ultimately dropped in March 2003 due to lack of evidence. There has been no progress in the criminal proceedings, continued against persons unknown, since that time. The authorities ordered the retention of the alcoholic beverages as evidence in the criminal proceedings. The retained merchandise was inspected in the tax authority's storage house in February 2002 and it was noted that there were 52,118 bottles of alcohol. In the meantime the applicant made numerous requests to convince the tax administration to sell the merchandise before it became non-marketable or unfit for consumption to which she had no reply. In March 2002 all tobacco products were returned to her. She refused however, to collect the bottles of alcohol as, in her view, the state of the merchandise should be assessed beforehand. She subsequently made repeated attempts to have the remaining merchandise and the value of the missing and damaged bottles assessed, in vain. Despite negotiations on the matter, in April 2004 an order was issued under the relevant provision of the Tax Proceedings Code declaring the merchandise as abandoned property and acquired by the State. The applicant appealed, stating that the goods had not been abandoned. In May 2006 the courts quashed the acquisition order in so far as it concerned the 52,118 bottles, finding that it was irrelevant whether the applicant had abandoned them or not as they had been seized as evidence in criminal proceedings and the tax authorities did not have the power to release them. As concerned the remainder of the bottles, the courts subsequently found that the tax authorities had automatically acquired as abandoned the merchandise because the applicant had not sought to recover it within the time limit of nine months set by the Tax Procedure Code. In May 2002 the applicant brought a civil claim for damages against the Razgrad tax authority, the police and the prosecuting authorities for unlawful seizure of her merchandise and failure to market it before its expiry date. Those proceedings have been adjourned on numerous occasions, the last scheduled hearing being 16 September 2009, are currently still pending at first instance. The applicant's business was declared insolvent in 2006.

The applicant complained about the tax authorities' seizure, retention and declaring abandoned of her merchandise. She further complained about the excessive length of the civil proceedings in which she sought damages. She alleged in particular that the only explanation for the obstacles she had encountered when trying to defend her rights could be that the authorities were trying to cover up the disappearance of a significant quantity of her merchandise when it had been held by the local tax office between 2000 and 2002.

Article 6

Noting that most of the adjournments in the proceedings for damages had been due to failings attributable to the Bulgarian authorities, the Court considered that their length, seven years and four months for one level of jurisdiction had been excessive, in violation of Article 6 § 1.

Article 1 of Protocol No. 1

Firstly, the Court observed that, the domestic courts had established that the seizure of the applicant's merchandise in June 2000 had been unlawful under domestic law. Furthermore, that seizure had been ordered on grounds that the applicant did not possess a storage license, while in reality such licenses were not provided for by law and had never been issued in practice. A significant number of the seized bottles had apparently disappeared between June 2000 and February 2002 and, in the civil proceedings for damages, access to relevant documents had been denied to court appointed experts. Lastly, despite the applicant's insistence, an assessment of the remaining merchandise and the value of the missing and damaged bottles had never been undertaken. The Court therefore found it established that the authorities had been responsible for an unlawful loss of and damage to the applicant's property and that the measures enforced against her had been arbitrary. There had been a violation of Article 1 of Protocol No. 1 in respect of the June 2000 seizure and the ensuing pecuniary losses.

As concerning the retention of the 52,118 bottles as evidence in the criminal proceedings, it was difficult to accept that the authorities had been entitled to retain the applicant's merchandise indefinitely in that context, the investigation having remained dormant since March 2003. Nor, in the Court's view, had the applicant been responsible for the retention of the remaining bottles, her refusal to collect them without prior inspection having been understandable. The Court therefore considered that the retention of the applicant's alcohol after January 2002 had neither been lawful nor justified, in further violation of Article 1 of Protocol No. 1.

The context of the applicant's case, that is to say the tax authorities' unlawful acts and the proceedings for damages brought against them, had made it clear beyond doubt that the merchandise had been the object of ongoing dispute and had not been abandoned. By refusing to take that context into account and by simply automatically applying the relevant domestic provisions, the Bulgarian courts had made arbitrary judgments which had upheld an unlawful deprivation of property, again in violation of Article 1 of Protocol No. 1.

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

Kozak v. Poland (no. 13102/02) (Importance 1) – 2 March 2010 – Violation of Article 14 in conjunction with Article 8 – Infringement of the right to respect for family life on account of the blanket exclusion of persons living in a homosexual relationship from succession to a tenancy

For several years, the applicant lived together with his partner in a homosexual relationship. They shared a municipality flat rented by the applicant's partner. After his partner had died in April 1998, the applicant applied to the municipality to succeed to the tenancy of the flat. The municipal buildings department denied the request in June 1998, claiming that the applicant had not lived in the flat before his partner's death, and ordered the applicant to move out. While eviction proceedings against him were still pending, the applicant brought proceedings against the municipality in 2000, seeking to have his succession to the tenancy acknowledged. Relying on the housing act in force at the time, he brought forward that he had a right to succession, as he had run a common household with his partner for many years and had thus lived with him in *de facto* marital cohabitation. The claim was dismissed by the district court, holding in particular that Polish law recognised *de facto* marital relationships only between partners of different sex. On appeal, the judgment was upheld by the regional court in June 2001. The regional court did not grant the applicant's request to have referred to the Supreme Court the question of whether the clause "*de facto* marital cohabitation" also concerned persons living in a homosexual relationship. Nor did it obtain a ruling of the Constitutional Court on whether that clause, understood as including only heterosexual partners, was compatible with the Polish Constitution and the Convention.

The applicant complained that the Polish courts, by denying him the right to succeed to a tenancy after the death of his partner, had discriminated against him on the ground of his homosexual orientation.

The Court noted that it had to confine its examination to the proceedings at issue, concerning the applicant's succession to tenancy. The Court observed that in establishing whether the applicant fulfilled the conditions of the housing act the domestic courts had focused on the homosexual nature of the relationship with his partner. While the district court had also expressed some doubts as to whether the applicant had lived in the flat at the relevant time, both courts had rejected his claim on the grounds that under Polish law only a relationship between a woman and a man could qualify for de facto marital cohabitation. The Court accepted that the protection of the family founded on a union of a man and a woman, as stipulated by the Polish Constitution, was in principle a legitimate reason which might justify a difference in treatment. However, when striking the balance between the protection of the family and the Convention rights of sexual minorities, States had to take into consideration developments in society including the fact that there was not just one way of leading one's private life. The Court could not accept that a blanket exclusion of persons living in a homosexual relationship from succession to a tenancy was necessary for the protection of the family. It therefore unanimously concluded that there had been a violation of Article 14 taken in conjunction with Article 8.

- **Right to free elections**

Grosaru v. Romania (no. 78039/01) (Importance 1) – 2 March 2010 – Violations of Article 3 of Protocol No. 1 taken alone and in conjunction with Article 13 – Lack of clarity in the domestic electoral law of 1992 and absence of sufficient guarantees with regard to the opportunity of obtaining an impartial remedy

The applicant was a candidate in the parliamentary elections of November 2000, when he stood for the seat assigned to the Italian minority in Romania. Once all the votes had been counted the central electoral office, on the basis of the 1992 Law on Elections to the Chamber of Deputies and the Senate, granted the parliamentary seat belonging to the Italian minority to the "Italian Community of Romania". Although Mr Grosaru was the candidate from that organisation who had obtained the most votes – 5,624 votes at national level –, the central electoral office allocated the seat in Parliament to another member of the organisation, who had obtained only 2,943 votes, but in a single constituency. The applicant challenged that decision before the central electoral office. In December 2000 his challenge was dismissed as unfounded, in a decision signed by six judges and six representatives of political parties. He lodged an appeal with the central electoral office, which declared it inadmissible, ruling as a panel composed of six judges and twelve representatives of political parties. Complaints by the applicant to the Constitutional Court and the Supreme Court were declared inadmissible for lack of jurisdiction in electoral disputes. The applicant's complaint to the validation commission of the Chamber of Deputies was dismissed on the same grounds as those put forward by the central electoral office. The 2004 Law on Elections to the Chamber of Deputies and the Senate now states that the parliamentary seat assigned to a particular national minority is to be allocated to the electoral constituency in which the list of candidates put forward obtained the most votes. In 2004 and 2008 the applicant was elected Member of Parliament on behalf of the Italian minority of Romania.

The applicant complained that he had been refused a seat as Member of Parliament in 2000.

Alleged violation of Article 3 of Protocol No. 1

The Court reiterated that the States had a wide margin of discretion in determining electoral rules. However, the decisions taken in application of these rules had to be accompanied by sufficient guarantees to avoid any arbitrariness. In this connection, the Court noted firstly the lack of clarity in the 1992 Electoral Law with regard to the procedure to be followed in assigning the parliamentary seat set aside for an organisation representing a national minority. This law stated that the seat was to be allocated to the candidate who received the largest number of votes, but did not specify whether this was the largest number of votes at national level or at the level of an electoral constituency. This lack of clarity in the electoral rules entailed an obligation on the Romanian authorities to be prudent in interpreting them, bearing in mind the direct impact that their interpretation would have had on the result of the elections. Specifically, the central electoral office had not given sufficient reasons for its decision in this regard. In particular, it had not indicated whether its decision corresponded to established practice, or why it chose to allocate the parliamentary seat to the candidate with greater representation at regional rather than national level. Admittedly, the Court took note of the legislative amendment introduced in the 2004 Law on Elections to Parliament, but that amendment had largely post-dated the facts complained of by the applicant and was not therefore capable of remedying the situation. The Court then considered the issue of the impartiality of the bodies responsible for examining the applicant's challenges. It noted, firstly, that the central electoral office and the validation commission of the Chamber of Deputies, which dismissed the applicant's challenge, were composed of a large number of representatives of political parties. Yet a person in the applicant's situation had legitimate reasons to believe that the latter individuals' interests were contrary to his. These bodies did not therefore appear to offer sufficient guarantees of impartiality. Secondly, the Court noted that no

national court had ruled on the interpretation of the disputed legal provision, which would nonetheless have been important, as was clear not only from its case law but also from reports by the Venice Commission and a comparative law analysis. Given the lack of clarity in the electoral law and the absence of sufficient guarantees with regard to the opportunity of obtaining an impartial remedy, the Court concluded, unanimously, that there had been a violation of Article 3 of Protocol No. 1.

Alleged violation of Article 13, taken in conjunction with Article 3 of Protocol No. 1

In view of the absence of any judicial review of the application of the electoral rules, the Court also concluded, unanimously, that there had been a violation of Article 13 of the Convention, taken in conjunction with Article 3 of Protocol No. 1.

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 Mar. 2010: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 04 Mar. 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.

<u>State</u>	<u>Date</u>	<u>Case Title and Importance of the case</u>	<u>Conclusion</u>	<u>Key Words</u>	<u>Link to the case</u>
Bulgaria	04 Mar. 2010	F.G. (no. 17911/03) Imp. 3	Violation of Art. 6 § 1 (length) Violation of Art. 13	Excessive length of criminal proceedings for negligent management of a publicly-owned hotel complex of which the applicant was a director Lack of an effective remedy	Link
Bulgaria	04 Mar. 2010	Getzov (no. 30105/03) Imp. 3	Violation of Art. 5 § 1 (e)	Unlawful placement in a psychiatric institution on the order of a prosecutor	Link
Poland	02 Mar. 2010	Hajot (no. 1127/06) Imp. 2	No violation of Art. 3 No violation of Art. 5 § 3	Domestic authorities' adequate assessment of the applicant's health problems Reasonable length of the applicant's pre-trial detention	Link
Romania	02 Mar. 2010	Moculescu (no. 15636/04) Imp. 2	Violation of Art. 1 of Prot. 1	Lack of compensation following the nationalisation of a part of the applicant's land	Link
Russia	04 Mar. 2010	Khametshin (no. 18487/03) Imp. 2	No violation of Art. 6 §§ 1 and 3 d)	Insufficient evidence to conclude that the applicant did not understand that his consent to the reading out of the pre-trial statements implied the waiver of the right to examine them in the subsequent proceedings at the trial	Link
Russia	04 Mar. 2010	Mokhov (no. 28245/04) Imp. 2	Violation of Art. 6 § 2 (fairness) Violation of Art. 6 § 1	Infringement of the applicant's right to presumption of innocence on account of a public statement by the investigator from the prosecutor's office accusing the applicant of murder before the opening of his trial Hindrance to the applicant's right to present his arguments in a defamation case before a court	Link
Russia	04 Mar. 2010	Savenkova (no. 30930/02) Imp. 3	Violation of Art. 5 §§ 1 (c), 3 and 4	Unlawfulness and excessive length of the applicant's pre-trial detention; domestic authorities' failure to	Link

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

				speedily examine the applicant's applications for release	
Russia	04 Mar. 2010	Shtukaturov (no. 44009/05) Imp. 2	Just satisfaction	Decision on just satisfaction following the judgment of 27 March 2008 (final judgment of 27 June 2008)	Link
Turkey	02 Mar. 2010	Barmaksiz (no. 1004/03) Imp. 3	Violation of Art. 8 Violation of Art. 6 § 1 (fairness)	Permanent monitoring of the applicant's correspondence with his lawyer by the prison authorities Unfairness of proceedings	Link
Ukraine	04 Mar. 2010	Shalimov (no. 20808/02) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length) Violation of Art. 8 Violation of Art. 13 (concerning the length of proceedings) No violation of Art. 13 (concerning the refusal of family visits)	Excessive length of pre-trial detention (three years and almost eleven months) Excessive length of proceedings Hindrance to the applicant's right to see his family for almost four years during pre-trial detention Lack of an effective remedy	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 NHRs 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.

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key words</u>
Romania	02 Mar. 2010	Iacob Pop and Others (nos. 12235/05, 13461/05 and 26070/06) link Stomff (no. 39312/07) link Teodor and Constantinescu (no. 35676/07) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments in the applicants' favour
Russia	04 Mar. 2010	Rybakova and Others (no. 22376/05) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Non-enforcement in adequate time of a final judgment in the applicants' favour
Russia	04 Mar. 2010	Andreyev (no. 32991/05) link	Violation of Art. 6 § 1 (fairness) and Art. 1 of Prot. 1	Quashing of an appeal judgment in the applicant's favour by way of supervisory review
Russia	04 Mar. 2010	Tolstobrov (no. 11612/05) link	No violation of Art. 6 § 1 (fairness) and Art. 1 of Prot. 1	Idem.
Turkey	02 Mar. 2010	Veli Yalçın (no. 29459/05) link	Violations of Art. 6 § 1 (length and fairness)	Excessive length of compensation proceedings; failure to provide the applicant with a copy of the opinion submitted to the Court of Cassation by the Chief Prosecutor

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 NHRs may be of particular relevance in that respect as well, as these judgments often reveal systemic defects, which the NHRs 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).

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Link to the judgment</u>
Italy	02 Mar. 2010	Lefevre (no. 34871/02)	Link
Portugal	02 Mar. 2010	Antunes (no. 12750/07)	Link
Romania	02 Mar. 2010	Cenoiu and Others (no. 26036/02)	Link
Russia	04 Mar. 2010	Barantseva (no. 22721/04)	Link
Turkey	02 Mar. 2010	Akkaya (no. 34395/04)	Link
Turkey	02 Mar. 2010	Döndü Bilgiç (no. 43948/02)	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 8 to 21 February 2010**.

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Armenia	09 Feb. 2010	Gevorgyan (no 20289/09) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a final judgment in the applicant's favour), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Bulgaria	09 Feb. 2010	Sharankov (no 42288/04) link	Alleged violation of Art. 6 and 13 (length of labour proceedings and lack of an effective remedy)	Struck out of the list (applicant no longer wished to pursue his application)
Bulgaria	09 Feb. 2010	Nikolov (no 19036/04) link	The application concerned the amount of compensation received by the applicant in respect of his pre-trial detention on account of the high amount of court fees he had been required to pay for the compensation proceedings	Struck out of the list (friendly settlement reached)
Bulgaria	09 Feb. 2010	Raykov (no 28990/04) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 3 (moral suffering due to the alleged length) and Art. 34 (authorities' failure to provide the applicant with copies of certain documents relevant to his complaints free of charge)	Idem.
Cyprus	09 Feb. 2010	Oikonomidis and Theodoulou	Alleged violation of Art. 6 (excessive length of administrative proceedings), Art. 6 (other	Idem.

		(no 4805/08) link	complaints), Art. 14 and Art. 1 of Prot. 1	
Finland	09 Feb. 2010	Remes (no 21367/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 13 (non-payment of costs and expenses incurred due to the District Court's failure to summon the witness and the postponement of the oral hearing)	Partly inadmissible as manifestly ill-founded concerning the length of proceedings (reasonable length of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Greece	09 Feb. 2010	Jacob and Cosoreanu (no 12322/07) link	The applicants complained about their alleged ill-treatment by police officers upon arrest, unlawful and abusive detention, conditions of detention, and prohibition of stay and subsequent expulsion from Greece	Struck out of the list (applicants no longer wished to pursue their application)
Hungary	09 Feb. 2010	Juhász (no 44772/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Hungary	09 Feb. 2010	Szebellédi (no 38789/06) link	Idem.	Idem.
Latvia	09 Feb. 2010	Čuprakovs (no 8543/04) link	Alleged violation of Art. 3 (conditions of detention in the Prison Hospital), Art. 5 § 1 c) (detention incompatible with the applicant's state of health), Art. 5 § 4 and 13 (Supreme Court's failure to respond to the applicant's to be released from detention), Art. 6 § 1 (unfairness of the proceedings), Art. 6 § 2 (predetermination the outcome of the case at all three instances); Art. 6 § 3 b), c), d) and e) and Art. 34	Partly adjourned (concerning the conditions of detention and the quality of medical care in the Prison Hospital and monitoring of the applicant's correspondence with the Court), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Latvia	09 Feb. 2010	Klopcovs and Others (no 14042/02) link	Alleged violation of Articles 3, 8, 13 and 34	Struck out of the list (it is no longer justified to continue the examination of the application on account of the failure to comply with the requirement of proper legal representation notwithstanding repeated requests from the Court to get legal representation and legal aid possibilities)
Latvia	09 Feb. 2010	Apars (no 31629/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 3 (inadequate medical treatment in prison) and Art. 5 § 3 (length of pre-trial detention)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Luxembourg	09 Feb. 2010	Johanns (no 27830/05) link	Alleged violation of Art. 6 (unfairness of proceedings)	Struck out of the list (applicant no longer wished to pursue his application)
Poland	09 Feb. 2010	Pach (no 28666/08) link	Alleged violation of Art. 6 (excessive length of criminal proceedings, which started in 1998 and are still pending)	Struck out of the list (friendly settlement reached)
Poland	09 Feb. 2010	Pryško (no 16108/07) link	Alleged violation of Art. 6 (refusal to appoint a lawyer for the applicant with a view to filing a cassation appeal)	Idem.
Poland	09 Feb. 2010	Kuderewska and Kuderewski (no 48531/07) link	Alleged violation of Art. 6 § 1 (length of administrative proceedings) and Art. 13 (lack of an effective remedy)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the lack of an effective

Poland	09 Feb. 2010	Orzechowski (no 33362/07) link	Alleged violation of Art. 6 § 1 (lack of access to a court)	remedy) Struck out of the list (friendly settlement reached)
Russia	09 Feb. 2010	Pylnev (no 3038/03) link	Alleged violation of Articles 3, 5, 6 § 1, 6 § 3 (b), 6 §§ 1-3, 8, 9, 13, Articles 1 and 2 of Prot. 1, Art. 2 of Prot. 4, Art. 2 of Prot. 7, Art. 4 of Prot. 7	Partly inadmissible for non-exhaustion of domestic remedies (concerning the arrest and questioning), partly inadmissible for non-respect of the six-month requirement (concerning claims under Art. 5), partly inadmissible as manifestly ill-founded (concerning the conditions of detention and the lack of medical treatment in detention and the claims under Article 6 §§ 1 and 3 b) and c)), partly inadmissible as manifestly ill-founded regarding the seizure of his properties and other irregularities (no violation of the rights and freedoms protected by the Convention)
Russia	09 Feb. 2010	Petrov (no 30321/07) link	Alleged violation of Art. 3 (conditions of detention in remand prison no. IZ-39/15), Art. 5 (unjustified decision to place the applicant into custody) and Articles 6 and 13 (unfairness of proceedings)	Struck out of the list (applicant no longer wished to pursue his application)
Slovakia	09 Feb. 2010	Občianske združenie Ži a nechaj žiť (no 13971/03) link	Alleged violation of Art. 11 (infringement of the right peaceful assembly on account of the imposition of a fine for using roads in an unauthorised manner for organising a cycle-ride event in the course of which a road crossing was blocked)	Inadmissible as manifestly ill-founded (the applicant association can no longer claim to be a victim)
Spain	09 Feb. 2010	Aukera Guzziak (no 36623/05) link	Alleged violation of Art. 10 and Art. 3 of Prot. 1 (the applicant party's deprivation of participating in Parliamentary elections), Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Sweden	09 Feb. 2010	Holland (no 27700/08) link	Alleged violation of Articles 34 and 35 (hindrance to the applicant's right to exercise his right to complain to the Court on account of the destruction of tape recordings of the Court of Appeal's hearing, before the six months' time-limit established by the Convention) and Chancellor of Justice's failure to address his complaint	Inadmissible as manifestly ill-founded (the destruction of the tapes did not hinder the applicant from effectively exercising his rights and Chancellor of Justice's sufficiently detailed response to the applicant's complaint)
Sweden	09 Feb. 2010	Valquist (no 51679/08) link	Alleged violation of Articles 3 and 8 (unlawful surveillance and harassment of the applicant by the Armed Forces) and Art. 1 of Prot. 1 (the Armed Forces had withheld money promised to the applicant) and Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention and lack of an arguable claim under Art. 13)
"the Former Yugoslav Republic of Macedonia"	09 Feb. 2010	Stojkovi (no 8589/07) link	Alleged violation of Art. 6 (excessive length and unfairness of civil proceedings) and Art. 1 of Prot. 1 (deprivation of property)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible for failure to substantiate complaints (concerning the remainder of the application)
the United Kingdom	09 Feb. 2010	Iyisan (no 7673/08) link	Alleged violation of Art. 8 (violation of the right to private and family life due to the deportation to the	Inadmissible as manifestly ill-founded (the interference with the applicant's private and family life

			Turkey)	was proportionate to the legitimate aims pursued, namely the maintenance of an effective system of immigration control, the prevention of disorder and crime and the protection of health and morals)
Turkey	09 Feb. 2010	R.B.G. and Others (no 40270/08) link	The applicants' complaints concerning their threatened deportation to Iran, the alleged lack of an effective remedy, the alleged unlawfulness of their detention and the alleged lack of an effective remedy to challenge the lawfulness of their detention	Struck out of the list (applicants no longer wished to pursue their application)
Turkey	09 Feb. 2010	Adiyaman (no 58933/00) link	Alleged violation of Art. 2 (killing of the applicant's husband by State agents and lack of an effective investigation into the circumstances of his death)	Inadmissible as manifestly ill-founded (no material evidence to enable the Court to conclude beyond all reasonable doubt that the applicant was killed by any State agent or person acting on behalf of the State authorities and an effective investigation was conducted by the State)
Turkey	09 Feb. 2010	Çatal (no 26808/08) link	Alleged violation of Art. 3 (ill-treatment in police custody), Articles 5 § 3, 6 §§ 1, 2 and 3 (c), 8 and 13 (excessive length of pre-trial detention and of the proceedings)	Partly adjourned (concerning right to be released pending trial, to take proceedings to challenge the lawfulness of continued detention, to be tried within a reasonable time and to have an effective remedy for the unreasonable length of proceedings), partly inadmissible for non-exhaustion of domestic remedies and partly inadmissible for non respect of the six-month requirement (concerning the remainder of the application)
Turkey	09 Feb. 2010	Angoulos Estate LTD (no 36115/03) link	Alleged violation of Articles 1, 8 and 14 and Art.1 of Prot. 1 and Articles 2 and 3 of Prot. 4 (Turkish invasion and the subsequent denial of access to the applicant company's immovable properties)	Struck out of the list (friendly settlement reached)
Turkey	09 Feb. 2010	Mehrdad (no 1157/08; 1165/08 etc) link	Alleged violation of Articles 2, 3, 5 and 13 (the applicants' proposed removal to Iran or Iraq by the Turkish authorities and lack of an effective remedy)	Struck out of the list (the applicants are no longer at risk of being deported to Iran or to Iraq by the Turkish authorities)
Turkey	09 Feb. 2010	Eşikara and Others (no 45095/05) link	The application concerned delayed enforcement of final judgments in the applicants' favour	Struck out of the list (applicants no longer wished to pursue their application)
Turkey	09 Feb. 2010	Aladağ (no 6781/04) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of criminal proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Turkey	09 Feb. 2010	Aslan and Others (no 3714/05) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of final judgments in the applicants' favour)	Struck out of the list (applicants no longer wished to pursue their application)
Turkey	09 Feb. 2010	Aksoy (no 2674/05) link	Alleged violation of Art. 6 § 1 (excessive length of compensation proceedings)	Struck out of the list (applicant no longer wished to pursue his application)
Turkey	09 Feb. 2010	Çelik (no 2042/04) link	Alleged violation of Articles 3, 6, 13 and 10, 11 and 14 (concerning the applicant's injuries following a violent dispersal of a demonstration by security forces)	Inadmissible (for no respect of the six-month requirement)

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 22 February 2010 : [link](#)
- on 1 March 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 22 February 2010 on the Court's Website and selected by the NHRS Unit

The batch of 22 February 2010 concerns the following States (some cases are however not selected in the table below): Estonia, Germany, Greece, Italy, Malta, Moldova, Romania, Slovakia, Turkey and Ukraine.

<u>State</u>	<u>Date of communication</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Germany	04 Feb. 2010	Hoffer and Annen nos 397/07 and 2322/07	Alleged violation of Art. 10 – The applicants' criminal conviction for distributing pamphlets concerning the "struggle against the unpunished killing of unborn children" allegedly violated their right to freedom of expression – Alleged violation of Art. 6 § 1 – Excessive length of proceedings
Greece	03 Feb. 2010	Nisiotis no 34704/08	Alleged violation of Art. 3 – Conditions of detention in Ioannina prison
Moldova	04 Feb. 2010	Cicala no 45778/05	Alleged violation of Art. 3 – Ill-treatment by police officers upon arrest and in police custody – Lack of an effective investigation – Lack of adequate medical assistance – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 8 – Interference with the applicant's right to respect for his home on account of the police entering the front garden of his house
Moldova	04 Feb. 2010	Morozan no 6503/04	Alleged violation of Art. 3 – Ill-treatment by the police while in detention – Lack of an effective investigation
Moldova	04 Feb. 2010	Bisir and Others no 42973/05	Alleged violation of Art. 3 – Ill-treatment by the police (first applicant) – Conditions of detention – Lack of adequate medical assistance – Lack of an effective investigation in respect of the ill-treatment – Alleged violation of Art. 5 § 3 – Insufficient reasoning in the decisions ordering the extension of the applicants' detention – Alleged violation of Art. 8 – Search of the applicants' houses – Alleged violation of Art. 13 – Lack of an effective remedy
Moldova	04 Feb. 2010	Grosu no 36170/05	Alleged violation of Art. 3 – Conditions of detention – Lack of adequate medical assistance
Turkey	04 Feb. 2010	Demir no 2091/07	Questions relating to whether the applicant complied with the requirements of Article 35 § 1 of the Convention (exhaustion of domestic remedies and observance of the six-month rule) in lodging his complaint under Article 3 of the Convention – Alleged violation of Art. 3 – Ill-treatment in police custody – Lack of an effective investigation – Alleged violation of Art. 6 § 1 – The applicant's conviction based on police statements taken from the applicant as a result of ill-

			treatment – Alleged violation of Art. 6 §§ 1 and 3 (c) – Lack of legal assistance in police custody – Alleged violation of Art. 5 § 3 – Excessive length of detention – Alleged violation of Art. 5 § 4 – The applicant's inability to challenge the lawfulness of his detention – Alleged violation of Art. 6 § 1 and Art. 13 – Excessive length of criminal proceedings – Lack of an effective remedy
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Communicated cases published on 1 March 2010 on the Court's Website and selected by the NHRS Unit

The batch of 1 March 2010 concerns the following States (some cases are however not selected in the table below): Austria, Azerbaijan, Bulgaria, Croatia, France, Georgia, Hungary, Italy, Latvia, Malta, Poland, Romania, Russia, Serbia, Slovakia, Sweden, "the former Yugoslav Republic of Macedonia", the United Kingdom, Turkey and Ukraine.

<u>State</u>	<u>Date of communication</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Azerbaijan	09 Feb. 2010	Rasulov no 26216/08	Alleged violation of Art. 8 – Interference with the applicant's right to respect for his private and family life on account of the dismissal of a claim contesting the result of paternity tests
Croatia	09 Feb. 2010	Katavić no 38392/08	Alleged violations of Art. 3 – Handcuffing of the applicant during hearings – Conditions of pre-trial detention – Alleged violation of Art. 5 § 3 – Excessive length of pre-trial detention
Croatia	09 Feb. 2010	Šimunovski no 42550/08	Alleged violation of Art. 3 – Conditions of detention in Varaždin prison – Alleged violation of Art. 8 – Did the Šibenik Prison authorities deny the applicant conjugal visits and the right to use his own laptop computer and printer, although he had been granted these rights by the Head of Prison Administration ? – Interference with the applicant's right to respect for his correspondence – Alleged violation of Art. 10 – Failure to provide the applicant with newspapers while in prison – Alleged violation of Art. 1 of Prot. 1 – Interference with the applicant's peaceful enjoyment of his possessions on account of his inability to draw his pension from his bank account – Lack of an effective remedy under Articles 8, 10 and Art. 1 of Prot. 1 – Access to court effective?
Georgia	10 Feb. 2010	Alimonaki no 51086/09	Alleged violation of Art. 3 – Conditions of detention in Prison no 5 in Tbilisi – Contracting tuberculosis and other medical problems in prison – Alleged violation of Art. 13 – Lack of an effective remedy
Georgia	10 Feb. 2010	Moukbaniani no 44697/09	Alleged violation of Art. 3 – Lack of medical treatment in the Health Center Ksani of Prison no. 1 of Tbilisi in respect of the applicant's tuberculosis
Georgia	08 Feb. 2010	Kartvelishvili no 17716/08	Alleged violation of Art. 3 – Conditions of detention in Prison no. 7 of Tbilisi and the applicant's infection with tuberculosis and Hepatitis C in prison – Lack of an adequate medical treatment – Alleged violation of Art. 6 § 3 (d) in conjunction with Article 6 § 1 – Failure to provide the applicant with an opportunity to examine witnesses on his behalf
Hungary	08 Feb. 2010	Gubacsi no 44686/07	Alleged violation of Art. 3 – Ill-treatment by the police – Lack of an effective investigation
Italy	10 Feb. 2010	Carrella no 33955/07	Alleged violations of Articles 2 and 3 – Conditions of detention – Lack of adequate medical treatment – Lack of an effective investigation
Latvia	09 Feb. 2010	Čuprakovs no 8543/04	Alleged violation of Art. 3 – Conditions of detention in cell no. 334 of the Prison Hospital – Lack of adequate medical treatment in the Prison Hospital – Questions relating to whether the applicant had exhausted all domestic remedies as required by Art. 35 § 1 – Alleged violation of Art. 8 – Infringement of the right to respect for correspondence – Alleged violation of Art. 34 – Hindrance by the State of the effective exercise of the applicant's right of petition – A partial decision on admissibility is available on HUDOC – (adjournment of alleged violations concerning prison conditions and quality of medical care)
Latvia	08 Feb. 2010	Djundiks no 14920/05	Alleged violation of Art. 3 – Ill-treatment in custody by police officers – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy – The Government was requested to provide information about the system of domestic remedies available at the material time in such circumstances as in the present case – Alleged violation of Art. 5 § 1 (e) – Unlawful detention
Malta	09 Feb. 2010	Genovese no 53124/09	Alleged violation of Art. 14 in conjunction with Art. 8 – Discrimination on ground of the applicant's illegitimate status and/or the sex of his Maltese parent
Romania	08 Feb. 2010	Tănăsoaica no 3490/03	Alleged violation of Art. 10 – The applicant's criminal conviction for publishing an article concerning the use by a commercial society of high ammonium dosages
Russia	10 Feb. 2010	Fanziyeva no 41675/08	Alleged violation of Art. 2 – The State's responsibility in the applicant's daughter's death – Lack of an effective investigation – Alleged violation of Art. 3 – Ill-treatment of the applicant's daughter before and during her arrest and detention in the police station – Questions relating to whether the applicant had standing to complain under Article 3 of the Convention in relation to alleged ill-

			treatment of her daughter and on account of her own suffering in relation to her daughter's death – Alleged violation of Art. 13 – Lack of an effective remedy in respect of the alleged Articles
Russia	09 Feb. 2010	Yudina no 52327/08	Alleged violation of Art. 3 – Ill-treatment by the police – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
the United Kingdom	09 Feb. 2010	Van Colle no 7678/09	Alleged violation Art. 2 – The State's failure to protect the life of the applicants' son – Alleged violation of Art. 8 – Infringement of the deceased's, and of the applicants', right to private and family life
Ukraine	08 Feb. 2010	Feldman no 42921/09	Alleged violation of Art. 8 – State authorities' refusal to grant the applicant family visits and to allow him to attend the funeral of his father while he was in pre-trial detention – Alleged violation of Art. 9 – Domestic authorities' refusal to allow the applicant to meet a rabbi while in detention
<u>Cases concerning Chechnya</u>			
Russia	10 Feb. 2010	Baysultanova and Others no 7461/08	Alleged violation of Art. 2 – Abduction of the applicants' relative and lack of an effective investigation – Questions relating to whether there had been a special operation on 7 May 2000 at 40, Beregovaya Street in Ken-Yurt, aimed, in particular, at arresting Beslan Baysultanov – Alleged violation of Art. 3 – The applicants' mental suffering in connection with the disappearance of their close relative – Alleged violation of Art. 5 §§ 1-5 – Unacknowledged detention – Alleged violation of Art. 13 – Lack of an effective remedy in respect of Articles 2 and 3
<u>Cases concerning deportation</u>			
France	10 Feb. 2010	J. Z. and R. Z. nos 43341/09 and 43342/09	Alleged violation of Art. 3 – Risk of being ill-treated if expelled to the applicants' country of origin – Alleged violation of Art. 13 – Lack of an effective remedy
Sweden	11 Feb. 2010	Biraga and Others no 1722/10	Alleged violation of Art. 8 – Violation of the applicants' right to respect for their family life if the deportation order to Ethiopia were enforced – Alleged violation of Art. 3 – Separation of the applicants having regard to the applicants' daughter's very young age

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

Referrals before Grand Chamber (08.03.2010)

Three cases have been referred to the Grand Chamber: *Lautsi v. Italy* concerning crucifixes in classrooms, *Giuliani and Gaggio v. Italy* concerning the death of a demonstrator during the G8 summit in 2001 ([Press Release](#)), and *Al-Khawaja and Tahery v. the United Kingdom*. [Press Release](#)

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers held its latest "human rights" meeting from 2 to 4 March 2010 (the 1078th meeting of the Ministers' deputies).

Link to the meeting's [Agenda](#) and [Resolution](#) adopted at the meeting

Links to the decisions adopted at the meeting:

- [CM/Del/OJ/DH\(2010\)1078genpublicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - General questions - public information version
- [CM/Del/OJ/DH\(2010\)1078section1publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 1 - public information version
- [CM/Del/OJ/DH\(2010\)1078section2.1publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 2.1 - public information version
- [CM/Del/OJ/DH\(2010\)1078section2.2publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 2.2 - public information version
- [CM/Del/OJ/DH\(2010\)1078section4.1publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 4.1 - public information version
- [CM/Del/OJ/DH\(2010\)1078section4.2publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 4.2 - public information version
- [CM/Del/OJ/DH\(2010\)1078section4.3publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 4.3 - public information version
- [CM/Del/OJ/DH\(2010\)1078section5publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 5 - public information version
- [CM/Del/OJ/DH\(2010\)1078section6.1publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 6.1 - public information version
- [CM/Del/OJ/DH\(2010\)1078section6.2publicE / 18 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Annotated Agenda - Decisions - Section 6.2 - public information version

Link to the resolutions adopted at the meeting

- [CM/ResCMN\(2010\)1E / 04 March 2010](#)
Framework Convention for the Protection of National Minorities – Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Bulgaria (Adopted by the Committee of Ministers on 4 March 2010 at the 1078th (DH) meeting of the Ministers' Deputies)

- [CM/Del/Dec\(2010\)1078volresE / 09 March 2010](#)
1078th meeting (DH), 2-4 March 2010 - Resolutions adopted
- [CM/ResDH\(2010\)35E / 09 March 2010](#)
Interim Resolution - Execution of the judgements of the European Court of Human Rights in 31 cases against the Russian Federation mainly concerning conditions of detention in remand prisons (See Appendix I for the list of cases in the Kalashnikov group) - (adopted by the Committee of Ministers on 4 March 2010 at the 1078th meeting of the Ministers' Deputies)
- [CM/ResDH\(2010\)34E / 09 March 2010](#)
Interim Resolution - Execution of the judgements of the European Court of Human Rights in 25 cases against Portugal (see Appendix II) relating to the excessive length of judicial proceedings - (adopted by the Committee of Ministers on 4 March 2010 at the 1078th meeting of the Ministers' Deputies)
- [CM/ResDH\(2010\)33E / 09 March 2010](#)
Interim Resolution - Execution of the judgement of the European Court of Human Rights of 7 December 2006 (final on 23 May 2007) in the case of *Xenides-Arestis against Turkey* - (adopted by the Committee of Ministers on 4 March 2010 at the 1078th meeting of the Ministers' Deputies)

B. General and consolidated information

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

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

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

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

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

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

A. European Social Charter (ESC)

Montenegro is the 30th State to ratify the Revised European Social Charter (08.03.2010)

The President of the European Committee of Social Rights, Mrs Polonca KONCAR, welcomed Montenegro's ratification of the Revised Charter on 3 March 2010, making it the 43rd State Party to the Charter (and the 30th to the Revised Charter). She commended Montenegro for its commitment to core social rights and noted with satisfaction that the ratification had been helped along by good cooperation between the Montenegrin authorities and the Council of Europe. Mrs KONCAR also expressed her hope that the four member States that have not yet ratified the Charter (Liechtenstein, Monaco, San Marino and Switzerland) will do so in the near future.

[Country factsheet for Montenegro](#)

France - Housing conditions of travellers in violation of the Revised Charter (01.03.2010)

In a decision which became public on 27 February with regard to the collective complaint *European Roma Rights Centre ("ERRC") v. France* (no. 51/2008), the European Committee of Social Rights held that there is a violation of the effective right to housing of travellers leading to social exclusion and discrimination, (failure to create a sufficient number of stopping places, poor living conditions and operational failures at these sites, lack of access to permanent housing and unjustified violence during eviction from stopping places) and in breach of Article 31 §§ 1 and 2, Article E taken in conjunction with Article 31, Article 16 and Article E in conjunction with Article 16, Article 30, Article E taken in conjunction with Article 30 and Article 19 § 4 c) of the Revised Charter.

[Summary of 51/2008](#)

[Decision on the merits 51/2008](#)

The Netherlands - The denial of the right to shelter for children unlawfully present on its territory is contrary to the Revised Charter (01.03.2010)

In a decision which became public on 28 February with regard to the collective complaint *Defence for Children International (DCI) v. the Netherlands* (no. 47/2008), the European Committee of Social Rights held that States Parties are required to provide adequate shelter for children, even if they are unlawfully on their territory, for as long as they are in their jurisdiction. This not being the case in the Netherlands, the Committee held the situation in this country to be in violation of both Article 31 § 2 (right to housing) and Article 17 § 1 c) (protection of children) of the Revised Charter.

[Summary of 47/2008](#)

[Decision on the merits](#)

Training session for prosecutors held in St Petersburg (03.03.2010)

Mrs Elena VOKACH-BOLDYREVA, Council of Europe expert on the ESC, presented the Revised Charter as a completion of the European Convention of Human Rights at a training session organised for prosecutors from 3 to 5 March in St. Petersburg. She also spoke of the process of ratification of this instrument by the Russian Federation.

[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 243rd session of the European Committee of Social Rights will be held from 26-30 April 2010

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

Council of Europe anti-torture Committee elects its new Bureau (08.03.2010)

The CPT elected its new Bureau. For the third time, the CPT entrusted its presidency to Mauro Palma, an Italian specialist on prison issues. Pétur Hauksson, an Icelandic psychiatrist, has been elected as the CPT's 1st Vice-President. Previously, he held the post of 2nd Vice-President. Haritini Dipla, a Greek professor of international law, is the CPT's new 2nd Vice-President. These three members of the CPT constitute the Committee's Bureau.

Council of Europe anti-torture Committee publishes report on Montenegro (09.03.2010)

The CPT has published on 9 March the [report](#) on its first periodic visit to Montenegro as an independent State, together with the [Montenegrin authorities' response](#). These documents have been made public at the request of the Montenegrin Government. The visit took place in September 2008.

During the visit, the CPT's delegation received numerous allegations of deliberate physical ill-treatment of persons deprived of their liberty by the police and observed, in some cases, physical marks consistent with allegations made. The report concludes that the effectiveness of investigations involving allegations of ill-treatment needs to be improved. Further, the Committee has made a series of recommendations aimed at strengthening legal safeguards against ill-treatment. In their response, the Montenegrin authorities refer to steps taken to improve training for police officers.

Council of Europe anti-torture Committee publishes report on Austria (11.03.2010)

The CPT has published on 11 March the [report](#) on its February 2009 visit to Austria, together with the [Austrian Government's response](#). Both documents have been made public at the request of the Austrian authorities. In the visit report, the CPT reviewed the measures taken by the Austrian authorities following the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment of persons detained by the police and to the conditions of detention under which foreign nationals are held in police detention centres. The CPT also examined in detail various issues related to prisons, including the situation of juvenile prisoners. In addition, the report covers visits to a civil psychiatric hospital and – for the first time in Austria – to a social welfare institution for persons with learning disabilities.

C. European Commission against Racism and Intolerance (ECRI)

ECRI releases four new reports on racism (02.03.2010)

ECRI released on 2 March four new reports examining racism, xenophobia, antisemitism and intolerance in Albania, Austria, Estonia and the United Kingdom. ECRI's Chair, Nils Muiznieks, has said that, while there have been improvements in certain areas, other issues continue to give rise to concern in those countries.

[Report on Albania](#); [Report on Austria](#); [Report on Estonia](#); [Report on the United Kingdom](#)

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)

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

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

Part IV: The inter-governmental work

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

1 March 2010

The **Netherlands** accepted the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#)).

Latvia signed the European Convention for the Protection of Pet Animals ([ETS No. 125](#)).

3 March 2010

Montenegro ratified the European Social Charter (revised) ([ETS No. 163](#)), the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows ([ETS No. 181](#)), the Convention on Cybercrime ([ETS No. 185](#)), and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems ([ETS No. 189](#)).

5 March 2010

Kazakhstan acceded to the European Cultural Convention ([ETS No. 18](#)).

8 March 2010

Montenegro signed the European Convention on the International Validity of Criminal Judgments ([ETS No. 70](#)), and the European Convention on the Compensation of Victims of Violent Crimes ([ETS No. 116](#)).

B. Recommendations and Resolutions adopted by the Committee of Ministers

[CM/RecChL\(2010\)3E / 10 March 2010](#)

Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Hungary (Adopted by the Committee of Ministers on 10 March 2010 at the 1079th meeting of the Ministers' Deputies)

[CM/RecChL\(2010\)2E / 10 March 2010](#)

Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Norway (Adopted by the Committee of Ministers on 10 March 2010 at the 1079th meeting of the Ministers' Deputies)

[CM/ResCMN\(2010\)1E / 04 March 2010](#)

Framework Convention for the Protection of National Minorities – Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Bulgaria (Adopted by the Committee of Ministers on 4 March 2010 at the 1078th (DH) meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Council of Europe - OSCE High-level meeting (05.03.2010)

The 19th Council of Europe-OSCE High-level meeting held in Geneva on 5 March 2010 centred on current and future co-operation between the two Organisations, their respective priorities and co-operation in the field.

[Joint Declaration](#)

Committee of Ministers and Assembly call for stronger participation of women in politics (05.03.2010)

According to Micheline Calmy-Rey, Chair of the Committee of Ministers, and Assembly President Mevlüt Çavusoglu, speaking on International Women's Day, women make up more than half the population and the electorate of the organisation's member States, but are still grossly under-represented in key political and public decision-making posts in many of those member countries.
[Special file on International Women's Day](#)

Council of Europe publishes reports on minority languages in Hungary and Norway (11.03.2010)

The Committee of Ministers has made public the reports on the situation of minority languages in Hungary and Norway. It calls on Hungary to develop a structured long-term policy in the field of minority language protection, while Norway is to ensure that social and health care institutions within the Sámi Administrative District offer services in North Sámi.

[Report on minority languages in Hungary](#); [Recommendation of the Committee of Ministers on the application of the Charter in Hungary](#); [Report on minority languages in Norway](#); [Recommendation of the Committee of Ministers on the application of the Charter in Norway](#); [File "Minority languages"](#)

Meeting of the Ministers' Deputies (11.03.2010)

At their 1079th meeting, on 10 March, the Deputies adopted a first set of decisions on the follow-up to the Interlaken Conference on the future of the European Court of Human Rights. Moreover, they approved a pre-electoral assistance programme in view of the forthcoming Parliamentary elections, which will take place in Azerbaijan in November 2010.

[CM/Del/Dec\(2010\)1079E / 12 March 2010](#)

1079th meeting, 10 March 2010 - Decisions adopted

Part V: The parliamentary work

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

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

➤ Countries

Albania: PACE President calls on all political forces to work together in Parliament (01.03.2010)

PACE President Mevlüt Çavusoglu welcomed on 1 March the return of the opposition to the Albanian parliament in last week of February as an important political sign. "However, I firmly hope that this positive step was not a "one off" and that it will mark the beginning of ongoing participation of all political forces in the work of the parliament." "I am all the more pleased about this development as it comes after the recent visit of our PACE Presidential Committee to the country, which aimed at supporting the process of resolving the current political situation and assisting President Topi in his role of mediator and his efforts to restore political dialogue," the President said. He encouraged the leaders of both the Socialist and Democratic parties to make further efforts to foster and strengthen political dialogue in the country. "Parliamentary dialogue is of utmost importance for the democratic functioning of the state's institutions, and vital for the reforms which need to be addressed without delay," he said.

He expressed hope that the Albanian delegation to PACE would be completed shortly and that opposition members would actively take part in the work of the Parliamentary Assembly.

[Press release following the visit of the Presidential Committee](#)

Bosnia and Herzegovina must open Presidency and House of Peoples to all citizens before elections (02.03.2010)

PACE President Mevlüt Çavusoglu has urged Bosnia and Herzegovina to make swift constitutional changes ending discrimination in elections to the Presidency and House of Peoples, in line with the recent judgment of the European Court of Human Rights in the case of *Sejdic and Finci v. BiH*. Addressing both chambers of the country's Parliamentary Assembly during a three-day official visit, Mr Çavusoglu warned that, if this change was not made before the forthcoming parliamentary elections in October, the institutions which resulted from the elections could have a problem of legitimacy. "This will not help anybody," he pointed out.

[Full speech](#)

'Political will' needed for urgent constitutional change in Bosnia and Herzegovina, says PACE President (03.03.2010)

Bosnia and Herzegovina urgently needs wide constitutional change, but – as an immediate first step, before the October elections – at least the provisions excluding some citizens from standing for the Presidency and the House of Peoples should be changed, Mevlüt Çavusoglu, the President of PACE, said in Sarajevo on 3 March. Speaking at a press conference at the end of a three-day official visit to the country (1-3 March), the President said: "It can be done in two months, before the deadline for changes to the electoral law. The substance is there – we have sound proposals from the Council of Europe's Venice Commission, as well as domestic and international initiatives – but what is needed is the political will." This step would bring the country into line with the recent judgment of the European Court of Human Rights in the case of *Sejdic and Finci v. BiH*, he pointed out. The President continued: "This will send a powerful signal, both to the citizens of the country and to the international community, that Bosnia and Herzegovina has a political class which can solve problems and move forward. In the

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

long term, this will bring greater political benefits than the defence of narrow party and ethnic interests.”

Mr Çavusoglu also called for compromise on the organisation of a census in 2011, and said he believed that “technical solutions” could be found that would meet all concerns. The return of displaced persons, and guaranteeing their social rights, should also be addressed urgently, but the two issues should not be conditional on one another.

During his visit, Mr Çavusoglu met the Presidency, the Chair of the Council of Ministers, and the Speakers of both chambers of the Parliamentary Assembly, as well as the leaders of the main political parties in the country. He also delivered an address to both chambers of the Assembly.

[Speech to both chambers of the parliament](#)

Protection of witnesses of war crimes in the former Yugoslavia: PACE rapporteur to visit Bosnia and Herzegovina (08.03.2010)

Jean-Charles Gardetto (Monaco, EPP/CD), rapporteur of the Committee on Legal Affairs and Human Rights of PACE on the protection of witnesses as the cornerstone for justice and reconciliation in the Balkans, made a fact-finding visit to Bosnia and Herzegovina from 9 to 11 March.

During his visit, Mr Gardetto met with representatives of the Ministries of Justice and Security and representatives of the judiciary, the police, and the State Investigation and Protection Agency (SIPA). Meetings were also scheduled with the OSCE and the Office of the High Representative (OHR), and with representatives of the Ministry of Justice of the Republika Srpska and of the Federation of Bosnia and Herzegovina.

The rapporteur has already made visits to Croatia and Serbia to discuss this matter.

PACE President to visit Kazakhstan (12.03.2010)

Mevlüt Çavusoglu, the President of PACE, made an official visit to Kazakhstan from 15 to 18 March. Meetings were scheduled with the President of the Republic, Nursultan Nazarbayev, the Chairman of Mazhilis (lower house of Parliament), Ural Muhamedzhanov, the Chairman of the Senate, Kassym-Zhomart Tokayev, and with the State Secretary and Minister for Foreign Affairs, Kanat Saudabaeyv. The PACE President also met with the Vice-President of the party “Nur-Otan”, the mayor of Almaty, and students of the Euroasian National University.

➤ Themes

PACE-Middle East: go-ahead given for the next session of the Tripartite Forum (05.03.2010)

The Sub-Committee on the Middle East of PACE Political Affairs Committee, under the chairmanship of Lluís Maria de Puig (Spain, SOC), held a two-day meeting (4-5 March) in Izmir (Turkey) at the invitation of the Turkish delegation to PACE. Against the backdrop of PACE Resolution 1700 (2010) on the Situation in the Middle East, the Sub-Committee decided to prepare the second session of the Tripartite Forum, bringing together the PACE, the Knesset and the Palestinian Legislative Council. The session focused on a limited number of specific projects in areas such as economic development, environment and natural resources, and will be held in the second half of 2010. In the meantime, the Sub-Committee also decided to monitor the follow-up given by the Israeli and Palestinian sides on certain practical problems raised by participants in the course of the meeting.

During the meeting, the Sub-Committee held an exchange of views with the representatives of the Knesset and the Palestinian Legislative Council and heard statements by PACE President Mevlüt Çavusoglu, as well as representatives of the Turkish authorities and Turkish experts.

[PACE President urges parliamentarians on both sides to keep talking](#)

Enhancing PACE-European Parliament co-operation: Mevlüt Çavusoglu to meet Jerzy Buzek in Strasbourg (05.03.2010)

The President of PACE, Mevlüt Çavusoglu, held talks with the President of the European Parliament, Jerzy Buzek, in Strasbourg on 8 March 2010. On the same day and the following day, 9 March, Mr Çavusoglu also met the leaders of the political groups in the European Parliament: Joseph Daul (EPP), Martin Schulz (PES), Graham Watson (ALDE) and Daniel Cohn-Bendit (Greens/European Free Alliance), as well as Stefan Füle, European Commissioner for Enlargement.

At these meetings, discussion focused on ways of increasing co-operation between the Council of Europe and the European Parliament.

PACE President wants to strengthen co-operation with the European Parliament (09.03.2010)

Discussions with EP leaders focused on the accession of the European Union to the European Convention on Human Rights, the role of the two institutions in conflict prevention and conflict resolution, the prospect of integrating Belarus more closely and the opening up of the Parliamentary Assembly to non-member countries through the 'partner for democracy status'.

The Chair of the CM and PACE President call for a stronger participation of women in politics (05.03.2010)

According to Micheline Calmy-Rey, Chair of the Committee of Ministers of the Council of Europe, speaking on International Women's Day, women make up more than half the population and the electorate of the organisation's member States, but are still grossly under-represented in key political and public decision-making posts in many of those member countries. "Yet women have a major role to play in our public institutions," she continued. "I am convinced of this, both as a woman and, even more, as a woman in politics."

Mevlüt Çavusoglu, President of PACE, added that the worldwide situation was serious, with less than 20 per cent of parliamentary seats held by women, and not even 5 per cent of heads of state being women. "A substantial increase of the representation of women in politics is indispensable to improve the quality of our democracies," he said.

"As Chair of the Committee of Ministers," Mrs Calmy-Rey said, "I am very keen to see a more balanced representation of women and men in politics and public life. I call on member States' governments to take firm action on this at both national and international levels. Both human rights and democracy are at stake. I also call on women to deploy their talents on behalf of public life in all our countries."

[Recommendation on "increasing women's representation in politics through the electoral system"](#)

PACE calls for measures to bridge the wage gap between women and men (12.03.2010)

Following its debate on a report presented by Paul Wille (Belgium, ALDE), PACE invited Council of Europe member States to ensure that the right to equal pay for work of equal value is enshrined in their domestic legislation, and that employees have recourse to the judicial process to pursue their claims with regard to this right, without incurring risks to their employment. Member States should also promote fair job classification and remuneration systems, including in the private sector. And finally, they should be encouraged to follow the Norwegian and Icelandic models, and the recent French initiative, requiring at least 40% female members on certain companies' boards.

[Report](#)

Helping children who witness domestic violence (12.03.2010)

PACE Standing Committee, meeting in Paris on 12 March called for the appropriate inclusion of the aspect of children who witness domestic violence into a future Council of Europe Convention focussing on violence against women. It invited member States to develop comprehensive social services and educational strategies aimed at preventing the intergenerational transfer of domestic violence.

The report, presented by Carina Ohlsson (Sweden, SOC), also proposed to develop the Council of Europe Platform on Children's Rights launched in June 2009 in order to further mainstream and more efficiently co-ordinate children's issues in Council of Europe activities, thus enhancing their visibility and impact at national level.

[Report](#)

Minority protection in Europe: deficiencies in the implementation of common standards (12.03.2010)

"Eleven years after the Framework Convention for the Protection of National Minorities came into force, eight member States have still not ratified it, and restrictive declarations and reservations sometimes hinder its operation", according to Boriss Cilevics (Latvia, SOC), speaking at a meeting of the Standing Committee in Paris on 12 March.

In a recommendation adopted on the basis of his report, the PACE asked the Committee of Ministers to increase efforts to achieve speedy ratification of the Convention and to continue its co-operation with other international organisations so as to achieve consistent interpretation of standards and to

pursue common policies on the protection of national minorities. The PACE also called on those states which have ratified the Convention to clarify the division of tasks between national and local levels and to adopt good practices.

[Report](#)

PACE welcomes the first legal instrument for combating the counterfeiting of medicines (12.03.2010)

"The Parliamentary Assembly is increasingly concerned about the serious threat posed by counterfeit medicines to the life and health of vulnerable people and patients in Europe and elsewhere. The recent development of cross-border care and the introduction of on-line pharmaceutical sales and direct e-mail ordering have amplified the problem", concluded Bernard Marquet (Monaco, ALDE) on 12 March at the PACE Standing Committee meeting in Paris.

Adopting its report, the Assembly welcomed the draft convention of the Council of Europe on counterfeiting of medical products and similar crimes involving threats to public health as the first binding international legal instrument to criminalise the counterfeiting of medical products. The PACE proposed amendments to the convention, in particular with a view to strengthening protection for patients of all ages who might use counterfeit medical products.

[Report](#)

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

A. Country work

Commissioner Hammarberg meets President in Azerbaijan (02.03.2010)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, held a meeting with the President of the Republic of Azerbaijan, Ilham Aliyev, in Baku on 2 March. They discussed the functioning of the system of justice and the situation of the media and individual journalists. The Commissioner will conclude his mission to Azerbaijan on Friday and will issue a report with his recommendations later in the spring.

Azerbaijan: "Freedom of expression must be protected as a matter of priority" says Commissioner Hammarberg (05.03.2010)

Freedom of expression, situation of non-governmental organisations, respect of human rights by law enforcement officers, and the administration of justice were the main themes of the visit to Azerbaijan from 1-5 March 2010 by the Council of Europe Commissioner for Human Rights, Thomas Hammarberg.

[Read in Russian](#)

Commissioner Hammarberg concludes visit to Georgia (05.03.2010)

From 26 to 28 February, Council of Europe Commissioner for Human Rights, Thomas Hammarberg visited Georgia to pursue his efforts towards the release of detainees and the clarification of the fate of missing persons. The Commissioner introduced two international experts who will be monitoring the ongoing investigations into cases of missing persons on all sides. The two started their work with the case of three young Ossetians who went missing in October 2008. The Commissioner established that families of detainees on both sides would be allowed to pay visits to their imprisoned family members but regrets that no further progress could be reached in relation to release of detainees. He remains committed to facilitate further releases should the parties support his involvement and wish to overcome the present deadlock.

B. Thematic work

"Rulings anywhere that women must wear the burqa should be condemned - but banning such dresses here would be wrong" says Commissioner Hammarberg (08.03.2010)

"Women should be free to choose how to dress, without interferences from their communities or from state authorities" said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his Viewpoint published on 8 March on the occasion of the International Women's Day. "Prohibition of the burqa and the niqab would not liberate oppressed women, but might instead lead to their further alienation in European societies" he said.

[Read the Viewpoint](#)

Read in Russian ([.pdf](#) or [.doc](#))

**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)**

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