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

("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

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

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Introduction

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

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

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

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

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

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

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

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Grand Chamber judgments**

McFarlane v. Ireland (link to the judgment in French) (no. 31333/06) (Importance 1) – 10 September 2010 – Violation of Article 13 in conjunction with Article 6 § 1 – Lack of effective domestic remedies, including an action for damages for a breach of the constitutional right to reasonable expedition, as regards the delayed criminal proceedings and their length – Violation of Article 6 § 1 – Excessive length of criminal proceedings

The applicant was imprisoned in Northern Ireland in 1975 for his involvement in a bombing. In 1983 he escaped from prison. In January 1986 the applicant was arrested in the Netherlands and was later extradited to Northern Ireland where he resumed serving his sentence. In January 1998 the applicant was released on parole. A few days later, he was arrested and detained by the Irish police and subsequently charged by the Special Criminal Court (SCC) in Dublin with false imprisonment and the unlawful possession of firearms, offences he was alleged to have committed in 1983 when he had escaped from prison.

The applicant complained that the Irish authorities delayed bringing and proceeding with the criminal proceedings against him; that, as a result of the delay, key prosecution evidence was lost and that there was a lack of evidence against him other than questionable police interviews; that his arrest and detention amounted to a deliberate and disproportionate interference with his private and family life; and that there was no effective remedy under Irish law for his grievances, particularly concerning the length of the proceedings.

Article 13 in conjunction with Article 6 § 1

The Court did not find effective any of the domestic remedies proposed by the Irish Government. Concerning the first and main remedy proposed – an action for damages for a breach of the constitutional right to reasonable expedition – the Court found that there was significant uncertainty as to its availability. While it had been available in theory for almost 25 years, it had never been invoked. The development and availability of a remedy said to exist had to be clearly set out and confirmed or complemented by practice or case law. It had not been demonstrated that such an action could constitute a remedy as regards a judge's delay in delivering a judgment. The fact that the proposed constitutional remedy would form part of the High and Supreme Court body of civil litigation, meant that it would amount to a legally and procedurally complex constitutional action for damages in the High Court, with a likely appeal to the Supreme Court which, at least at the outset, would present some legal novelty. Two problems ensued: the time such proceedings could take and the potentially high legal costs and expenses involved in taking such an action. As to the remaining remedies proposed by the Irish Government, the Court found an action for damages under the European Convention of Human Rights Act 2003 ineffective since, among other things, it appeared that any delay attributable to "the courts" was not actionable under that Act and since the 2003 Act did not enter into force until 31 December 2003, by which time the applicant's proceedings had been ongoing for almost six years (the 2003 Act is not retroactive). An application for a prohibition order by reason of prejudice and real risk of unfair trial due to delay was substantively different from, and not effective as regards, a complaint about unreasonable delay within the meaning of Article 6 § 1. The Court concluded that the Government had not demonstrated that any of the remedies proposed by them constituted effective remedies available to the applicant in theory and in practice at the relevant time in violation of Article 13, in conjunction with Article 6 § 1.

Article 6 § 1

The Court considered that the criminal proceedings against the applicant had lasted over 10 years and six months, from the applicant's arrest on 5 January 1998 to his acquittal on 28 June 2008. As to what was at stake for the applicant, the charges against him were serious and he bore the weight of such charges and of the potential sentences, for approximately 10 years and six months. The Court concluded that the overall length of the criminal proceedings against the applicant were excessive, in violation of Article 6 § 1. Judges Gyulumyan, Ziemele, Bianku and Power expressed a joint dissenting opinion and Judge Lopez-Guerra expressed a separate dissenting opinion.

- **Right to life**

Bekirski v. Bulgaria (no. 71420/01) (Importance 2) Vlaevi v. Bulgaria (nos. 272/05 and 890/05) (Importance 3) – Failure to comply with Article 38 (first case) – Government's failure to furnish all necessary facilities to the Court to aid it in its task of establishing the facts within the meaning of Article 38 § 1 (a) – No violation of Article 3 (first case) – Proportionate use of force by police officers during a prisoner's attempted escape – Two violations of Article 2 (substantive and procedural) and two substantive violations of Article 3 (first case) – (i) Ill-treatment and torture at the hands of unidentified individuals either from the Plovdiv Regional Investigation Service or with their assistance or acquiescence – (ii) Lack of adequate medical treatment – (iii) Lack of an effective investigation – No violation of Article 2 (second case) – Compatible and necessary use of fire-arms during a police operation – Two violations of Article 2 (substantive and procedural) (second case) – (i) State authorities' failure to plan and control the police operation in which Marin Vlaev had died, in a way to minimise as much as possible all risk to life – (ii) Lack of an effective investigation

As regards the first case, Hristo Bekirski was detained on charges of premeditated murder. Having allegedly attempted to escape on 30 August 1996, he was subdued and handcuffed by a few duty officers after a fight in which he stabbed two of them in the eyes. A medical report was issued recording numerous bruises all over Hristo Bekirski's face and body; he was not treated immediately. According to Hristo Bekirski's relatives, including his father who was detained at the same time in the same establishment and claimed to have personally heard his screams, Hristo Bekirski was tortured continuously between 30 August and 6 September. Taken to hospital on 6 September, he died two days later. An autopsy established that numerous injuries caused by a solid blunt object were the cause of his death. The investigation, supervised by the authority in charge of the facility in which he had been detained, was discontinued several times as the authorities found that the duty officers had acted in self defence. In September 1997, a prosecutor from the military prosecution service found evidence that Hristo Bekirski had been systematically beaten after the events of 30 August and ordered that the investigation be continued. The new medical reports commissioned by the authorities established that all of the injuries may have occurred only during the fight and attempted escape. The report commissioned by his relatives found it more likely that new injuries had been sustained after the fight and also noted that the injuries had been inflicted by various objects and that Hristo Bekirski's state of health before his death had warranted immediate medical attention which he had not received.

As regards the second case, Marin Vlaev was a taxi-driver. In August 1998, he happened to pass next to a group of police officers who were carrying out an operation to free a hostage being held at ransom. When Marin Vlaev drove by, they had just stopped the suspected kidnapper who had come to collect the ransom and who was lying wounded on the side of the road. While initially Marin Vlaev slowed down significantly as if to stop his car, he accelerated suddenly after a policeman opened his car door and showed his identity card. Several police officers fired after Marin Vlaev's escaping car; two bullets hit him in the back and neck and he died on the spot. An investigation was opened a week later. In June 2004, the investigation was discontinued as the prosecutor held that the police had reasonably concluded that Marin Vlaev could have been an accomplice of the kidnapper given his strange behaviour and the fact that the kidnapper had indicated that the hostage would be freed as soon as the money was paid. The prosecutor also concluded that the police had attempted, as far as possible, not to endanger Marin Vlaev's or anyone else's life, having fired in a non-residential place and having aimed at the tires of his car.

The applicants complained that their relatives had been killed by the police; that their deaths had not been properly investigated, and (in the *Bekirski* case) that Hristo Bekirski had been ill-treated by the police and denied timely and adequate medical treatment.

Bekirski v. Bulgaria case:

Cooperation with the Court

The Court noted that, despite its specific request, the Bulgarian authorities had failed to provide the complete investigation file into Hristo Bekirski's death. In view of the ensuing difficulties for the Court to establish the facts and of the importance of the State to cooperate with it, the Court found that the Bulgarian Government had failed to provide all necessary facilities for the examination of the case, in violation of Article 38.

Prohibition of ill-treatment

As regards the fight of 30 August, the Court found that the duty officers had used reasonable force to subdue Hristo Bekirski, given that they had feared for their safety having been attacked with what appeared to be a lethal weapon. There had been no violation of Article 3 on that account. As regards the period between 30 August and 6 September the Court noted that numerous witnesses had testified to having heard screams and cries during those days and nights. In addition, a prosecutor from the military prosecution's office had found evidence that Hristo Bekirski had been systematically beaten on more than one occasion after his attempted escape. Further, the medical reports had recorded injuries not present at the time after the 30 August fight. Considering the above, and the Government's lack of assistance in providing all the information at its disposal, the Court concluded that, Hristo Bekirski, systematically beaten, had been kept in an almost permanent state of physical pain and anxiety. Consequently, he had been tortured in detention, in violation of Article 3. As regards the medical care provided to Hristo Bekirski, the Court noted that he had not been treated after the numerous injuries he first sustained on 30 August. Neither had he been taken to a specialised medical facility for a check-up. The Court found that the Bulgarian authorities had failed in their obligation to provide adequate and timely medical care to Hristo Bekirski, in violation of Article 3.

Right to life

The Court found that the torture, coupled with the lack of adequate medical care and the Government's reluctance to help it with its examination of the case, had led to Hristo Bekirski's death, in violation of Article 2. As regards the investigation carried out into Hristo Bekirski's death, the Court found that while it had been started promptly and a number of investigative steps had been taken, its impartiality could reasonably be called into question given that the investigating authority was the one supervising the establishment in which Hristo Bekirski had been detained and tortured. The Court was unable to establish the entire scope of the investigative acts carried out given the Government's unwillingness to cooperate. Consequently, there had been a violation of Article 2 for failure to carry out an effective investigation into Hristo Bekirski's death.

Vlaevi v. Bulgaria case:

Right to life

The Court found that Marin Vlaev's behaviour, having tried to escape despite an order to stop made by clearly identifiable police officers, had contributed to the police officers' suspicion that he could have been linked to the kidnapper. Given the urgent need for the police to react as the life of the hostage had still been in danger at that moment, the Court found that it had been absolutely necessary for the officers to use their fire-arms to stop the car and the driver. There had therefore been no violation of Article 2 as regards the use of fire-arms. As regards the preparation and control of the police operation, however, the Court noted that a plan had been drawn, fire-arms and protective equipment had been envisaged and the officers had received instructions either earlier in the day or immediately before the intervention. The officers had been instructed to use all means to apprehend the kidnappers, including using their fire-arms. While a degree of improvisation is inevitable in such police operations, the somewhat chaotic reaction of the officers upon the arrival of the taxi-driver suggested that they had not been prepared to see a second person at the scene, and to envisage other possible technical means for stopping the car or pursuing it. Consequently, the police operation in which Marin Vlaev had died, had not been planned and controlled in a way to minimise as much as possible all risk to life, in violation of Article 2. As regards the investigation carried out into Marin Vlaev's death, the Court noted that the Bulgarian authorities had not remained passive and had shown a willingness to establish if the force used by the police officers had been in line with domestic legislation. However, the Bulgarian legislation at the time, as applied by competent domestic authorites' in the present case, had not required the use of force to be absolutely necessary, contrary to what was prescribed by the Convention. In addition, significant delays had occurred in respect of many of the investigative steps carried out. Those delays as well as the overall duration of the preliminary investigation, amounting to almost six years, had been excessive. Accordingly, the investigation into Marin Vlaev's death had not been effective, in violation of Article 2.

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

Xiros v. Greece (no. 1033/07) (Importance 2) – 9 September 2010 – Violation of Article 3 – Shortcomings in the medical treatment provided to a prisoner with serious eyesight problems

In 2002 the applicant was seriously injured when a bomb exploded in his hands while he was preparing an attack. He still suffers from various consequences of the explosion, including an amputated hand and serious problems affecting his sight, hearing and movements. The applicant received medical attention from the beginning of his detention and underwent four eye operations. In 2005 the Penteli Hospital eye clinic noted that the applicant's vision was worsening and considered that systematic and frequent general check-ups, requiring hospitalisation in a specialist eye clinic, were necessary. Tests carried out at Athens General Hospital in 2005 and 2006, however, concluded that the applicant's eyesight was stable.

The applicant complained that, in view of his state of health, keeping him in prison constituted torture or inhuman or degrading treatment. He also complained of a lack of adequate and suitable medical treatment.

The Court reiterated that, under Article 3, the State had a duty of care towards sick prisoners, comprising three specific obligations. First, the State had to be satisfied that the person concerned was fit to be detained. The Court considered that the applicant's situation did not fall into the category of cases in which a prisoner's state of health was incompatible with his continued detention. The State was further required to provide prisoners with the medical care they needed. This requirement was of especial relevance in the applicant's case, given his particularly worrying state of health. The Court observed that the applicant had received medical treatment from the competent authorities which was appropriate to some of his health problems. As to his eyesight, the Court stressed that three of the four specialists who examined him had recommended that he be admitted to a specialist eye clinic for the time needed to treat him. However, the application for a stay of execution lodged by the applicant for that purpose had been rejected by the Piraeus Criminal Court. The Court took the view that the court in question had not given sufficient consideration to all the evidence available to it as it would have been preferable for it to request an additional expert report instead of taking a decision on an essentially medical issue which was central to the applicant's treatment. Those considerations were lent further weight by the fact that the medical care likely to be provided in Korydallos Prison fell some way short of what would be available in a hospital (various reports were explicit on that point: see Report to the Government of the Slovak Republic on the visit to Slovakia carried out by the CPT 06/12/2001; Report to the Government of Greece on the visit to Greece carried out by the CPT 08/02/2008; 2nd General Report on the CPT's activities 13/04/1992; Recommendation Rec(2006)2 of the Committee of Ministers to member States on the European Prison Rules 11/01/2006), and by the indisputably serious state of the applicant's health. The Court was unable to find, with regard to the medical treatment provided for the applicant's eyesight problems that the competent authorities had done what could reasonably be expected of them in terms of the requirements of Article 3. Lastly, the State had to adapt the overall conditions of detention of the person concerned as necessary to his or her particular state of health. That was of particular relevance in the applicant's case given the seriousness of his condition and the fact that, normally speaking, he would be subjected to his current conditions of detention for the rest of his life. The Court stressed that the applicant's overall conditions of detention (the size of his cell, opportunities for exercise, etc.) were not open to criticism. While mindful of the fact that the applicant was alone in his cell without assistance in performing everyday tasks, it observed that he had not requested such assistance and that at the beginning of his detention he had been allowed to share a cell with his brother. The Court acknowledged that the prison authorities had demonstrated their willingness to provide the applicant with treatment carried out by specialist medical personnel in a medical setting. However, it held, by four votes to three, that there had been a breach of Article 3 on account of the shortcomings in the treatment provided for his eyesight problems. Judges Jebens, Malinverni and Nicolaou expressed a joint dissenting opinion.

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

Y.P. and L.P. v. France (no. 32476/06) (Importance 3) – 2 September 2010 – Violation of Article 3 if the applicants were to be deported to Belarus – Real risk of ill-treatment for a member of the political opposition and his family if deported to Belarus

The applicants, Y.P. and his wife, L.P., are two Belarus nationals currently living illegally in France. In Belarus, Y.P. was arrested, detained and beaten several times by the police for his activities as a member of the Belarus Popular Front, including in February 1999 for acts of "hooliganism", an episode referred to in a report by the "Viasna" Human Rights Centre. His son, member of the same party, was arrested on various occasions, including when he was handing out pamphlets campaigning against changes to the Belarus Constitution enabling the President to remain in office for life. A few months previously the young man sustained a skull injury after being detained for taking part in an anti-dictatorship rally. In 2005, on arriving in France, the applicants lodged an application for asylum with the French Office for the Protection of Refugees and Stateless Persons ("OFPRA"), which was refused on the ground that Y.P. had not given a sufficiently detailed account of his political involvement and the alleged persecution. The Refugee Appeals Board, to which the applicants appealed, upheld the refusal of the asylum application. Orders for their deportation were issued in France. In March 2008 the applicants' young son, born in 2006, was admitted to hospital in Paris because of his family's precarious living conditions. In April 2008, following a request for review by the applicants, who argued that a return to Belarus would result in their being imprisoned for between two and five years, OFPRA again refused them asylum. After being placed in the Rouen administrative detention centre, they lodged a request with the Court seeking the suspension of the order for their removal. The Court granted the request under Rule 39 of its Rules of Court (interim measures), for the duration of the proceedings before it. After their asylum application was refused by OFPRA the applicants appealed unsuccessfully to the National Asylum Tribunal.

The applicants alleged that they would be at risk of ill-treatment if they were removed to Belarus.

The Court considered Y.P.'s account to be credible: he had provided evidence confirming his political involvement and the persecution to which he had been subjected, in particular in the form of statements from the association "Viasna" and medical certificates. In their decision refusing Y.P.'s asylum application the French authorities had made no mention of any international report concerning the situation in Belarus. Furthermore, they had not regarded the alleged continuation of his political activities in France or the fate of other opponents of the regime as indications that Y.P. might be wanted by the authorities. The passage of time did not automatically lessen the risks faced by Y.P. in Belarus. Although the Council of Europe had recently observed some positive developments with regard to democracy in Belarus, it also noted obstacles to restoration of the country's special guest status with the Council of Europe, which had been suspended in 1997 on account of the deteriorating human rights situation and in particular the ongoing harassment of opponents of the regime. The Court noted in that regard that an individual who had been engaged in political activities similar to Y.P.'s had disappeared in unexplained circumstances and that others were arrested on a regular basis. The extent of Y.P.'s involvement in campaigning was sufficiently demonstrated by his activities in Mogilev. The likelihood that information about him and his family would be made available to the Belarus authorities should they return was reinforced by the brutality and intimidation to which their son had been subjected. Their application for asylum in France was also liable to be seen as "discrediting Belarus", an offence punishable by imprisonment under the Belarus Criminal Code. The family's members might also be at risk of persecution purely on account of their association with him. The Court found that the applicants' deportation to Belarus at the present time would amount to a violation of Article 3.

- **Right to liberty and security**

Danev v. Bulgaria (no. 9411/05) (Importance 3) – 2 September 2010 – Violation of Article 5 § 5 – Domestic courts' excessive formalism in requiring proof of non-pecuniary damage resulting in lack of adequate compensation following un unlawful detention

Criminal proceedings were instituted against the applicant in November 1997 following a search in which fire-arms were found at his father's home. The applicant was charged with unlawful possession of firearms and was remanded in custody. He was later released for lack of evidence. The public prosecutor discontinued the proceedings against him in December 1997. Under the State Responsibility for Damage Act, the applicant brought an action against the public prosecutor's office and the investigation service, seeking compensation for the damage sustained as a result of his detention. He submitted that the detention had been contrary to domestic law, that he had been held in solitary confinement and in poor conditions, and that he had suffered anxiety, particularly because of his inability to look after his daughter and his disabled brother. A witness examined by the court after his release confirmed the problems faced by the applicant in that respect, testifying that on his release he had suffered from depression and insomnia. In June 2003 the court awarded compensation of BGN 1,000 to the applicant, who appealed, arguing that the award was too low. Although the appellate court acknowledged that the applicant's detention had been unlawful, it nevertheless dismissed his appeal on the ground that he had not proved that he had suffered any non-pecuniary damage.

The applicant alleged that his right to compensation for his unlawful detention had been infringed. He also argued that the principle of equality of arms had not been observed in the appeal proceedings.

The Court noted that although the applicant had obtained an implicit acknowledgment of a violation of Article 5 § 1 (c) on account of the unlawfulness of his detention, the courts had nevertheless not found in his favour. His claim for compensation had been dismissed on the ground that he had not proved that he had suffered any non-pecuniary damage. In particular, the statements by the witness had been disregarded as they had concerned the applicant's condition after and not during his detention. That implied, firstly, that any non-pecuniary damage should be outwardly perceptible and, secondly, that the adverse effects of unlawful detention ended upon release. However, the Court considered that such effects on a person's psychological condition could persist even after release. The authorities had imposed an obligation on the applicant to prove that he had suffered non-pecuniary damage as a result of his unlawful detention by adducing evidence of outward signs of physical or psychological suffering during the detention. Moreover, the courts had not taken into consideration either the finding of a violation of the applicant's right to liberty and security or his arguments concerning his fragile psychological condition while in detention as evidence of non-pecuniary damage. That formalistic approach meant that the award of any compensation was unlikely in the large number of cases where an unlawful detention lasted a short time and did not result in an objectively perceptible deterioration in the detainee's physical or psychological condition. The applicant also did not appear to have had any other means of redress available. The Court concluded that there had been a violation of Article 5 § 5.

- **Right to a fair trial**

Rumpf v. Germany (no. 46344/06) (Importance 1) – 2 September 2010 – Violation of Article 6 § 1 – First pilot judgment in respect of Germany – Excessive length of proceedings before German courts constitutes a systemic problem – Violation of Article 13 – Lack of an effective remedy

The case concerned the excessive length of proceedings before the domestic courts, a recurring problem underlying the most frequent violations of the Convention found by the Court in respect of Germany. More than half of its judgments against Germany finding a violation concerned this issue. **The Court therefore considered it appropriate to apply the pilot judgment procedure, which it had developed in recent years in order to deal with large groups of similar cases stemming from the same structural and/or systemic problem**. In order to facilitate the effective implementation of its judgments, in a pilot judgment the Court might clearly identify the existence of structural or systemic problems underlying the violations and indicate specific measures or actions to be taken by the responsible state to remedy them. From 1959 to 2009, the Court had delivered judgments in more than 40 cases against Germany finding repetitive violations of the Convention on account of the excessive length of civil proceedings. In another judgment, delivered in 2006, the Court had already pointed out the lack of an effective remedy against excessively long court proceedings and drawn the German Government's attention to its obligation to select, subject to supervision by the Committee of Ministers, the general measures to be adopted to put an end to the violation found by the Court and to redress so far as possible the effects. While the Court welcomed a recent legislative initiative by the Government aiming to address the problem, it also noted that Germany had so far failed to put into effect any measures aimed at improving the situation, despite the Court's substantial and consistent case-law on the matter. The systemic character of the problem was further evidenced by the fact that some 55 applications against Germany concerning similar problems were currently pending before the Court and the number of such applications was constantly increasing. Accordingly, the violations found in the instant case were the consequence of shortcomings of the German Government and to be qualified as resulting from a practice incompatible with the Convention.

The Court unanimously held that Germany had to introduce without delay and at the latest within one year from the date on which the judgment became final, an effective domestic remedy against excessively long court proceedings. A remedy was to be considered effective if it could be used either to expedite a decision by the courts dealing with a case, or to provide the litigant with adequate redress for delays that had already occurred. The Court did not consider it necessary to adjourn the examination of similar cases before the implementation of the relevant measures. Continuing to process all similar pending cases in the usual manner would remind Germany on a regular basis of its obligation under the Convention and in particular resulting from the instant judgment.

Operating a personal security service, the applicant lodged an administrative appeal against the decision of the Querfurt county authorities not to renew his gun licences in November 1993. The appeal was dismissed in March 1994. In parallel proceedings, he applied to the administrative court for interim measures. This application was dismissed in January 1994, a decision which was confirmed by the administrative court of appeal in August 1994. In April 1994, the applicant brought an action with Halle Administrative Court. The proceedings lasted more than 13 years at four levels of jurisdiction and a reasoned judgment, refusing leave to appeal on points of law, was served on the applicant's counsel in June 2004. An appeal against that decision was dismissed by the Federal Administrative Court in January 2005. In March, the applicant brought a constitutional complaint against the decisions of the lower courts, alleging in particular a violation of his Convention rights because of the length of the proceedings. The court's registry informed him about doubts as to the admissibility and asked him to indicate whether he wanted to pursue the complaint. The applicant requested an extension of the time-limit and in October 2005 his new counsel submitted further observations. In a decision of 25 April 2007, which was received by the applicant's lawyer in May 2007, the Federal Constitutional Court refused to admit the complaint for examination.

The applicant complained that the length of the proceedings before the administrative courts was excessive; he further complained that German law did not provide for an effective legal remedy against the excessive length of court proceedings.

Article 6 § 1

The Court considered that the period to be taken into consideration had begun on 30 November 1993 and had ended with the receipt of the Federal Constitutional Court's final decision on 7 May 2007, thus lasting in total 13 years and five months at four levels of jurisdiction. The Court observed that the proceedings had not raised any questions of law or fact of particular complexity. Most of the delay in the proceedings could not be attributed to the applicant. As regards the proceedings before the administrative court, only a delay of approximately two months could be attributed to him, resulting from requests for the extension of the time-limit set by the court more than one year after the action had been lodged. The most substantial delay occurred before the administrative court of appeal, where the proceedings had been pending for almost eight years. Only two lawyers had been involved in those proceedings, and that court had only asked for clarification of the applicant's representation nine months after the second lawyer had intervened. The additional appointment of legal counsel was therefore not responsible for any delay of the proceedings. A substantial delay of two and a half years was caused by the unsuccessful attempt to recover the missing files, which the Court considered to fall within the area of responsibility of the German Government. The motion for bias lodged later in the proceedings could not justify the fact that no new hearing was set in almost three years. Only the delay in the proceedings before the Federal Constitutional Court had to be attributed to the applicant, as his counsel had only submitted the required additional observations six months after the original time-limit. The Court noted that the applicant's business had depended on the outcome of the case. While the final refusal of the licence had led to an economic loss for him, it was also the length of the proceedings and the resulting uncertainty as to whether he would be able to resume his business that had damaged him. The Court unanimously held that there had been a violation of Article 6 § 1.

Article 13

The Court underlined that in many other cases against Germany it had found that there was no effective remedy under German law capable of affording redress for the unreasonable length of civil proceedings. Accordingly, it unanimously concluded that in the applicant's case there had been a violation of Article 13 on account of the lack of a remedy whereby he could have obtained a ruling upholding his right to have his case heard within a reasonable time, as set forth in Article 6 § 1.

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

Uzun v. Germany (no. 35623/05) (Importance 1) – 2 September 2010 – No violation of Article 8 – Justified GPS surveillance of bomb attacks suspect

The case concerned the applicant's surveillance via the Global Positioning System (GPS) as part of a criminal investigation. **It is the first case concerning GPS surveillance before the Court.**

In October 1995, the German Federal Public Prosecutor General (Generalbundesanwalt) instituted a criminal investigation against the applicant and a presumed accomplice on charges of having participated in bomb attacks for which the so-called Anti-Imperialist Cell, a left-wing extremist terrorist movement, had claimed responsibility. The investigation included visual surveillance of the applicant during weekends, video surveillance of the entrance of the building in which he lived, phone tapping and the installation of transmitters in the car of his presumed accomplice, which they often used together. After the two men had detected and destroyed the transmitters, and in view of the fact that they avoided speaking to each other over the phone, the Prosecutor General ordered their observation via GPS by installing a GPS receiver in the car of the applicant's accomplice in December 1995, allowing it to determine the location of the car. This surveillance lasted until the two men were arrested in February 1996. The Düsseldorf Court of Appeal dismissed the applicant's objection to the use of the GPS data as evidence, finding that it was covered by the Code of Criminal Procedure and that no court order had been required. In 1999, the court convicted the applicant of attempted murder and of four counts of causing an explosion and sentenced him to 13 years' imprisonment. It found that the two men had placed bombs in front of the houses of members or former members of Parliament and in front of a consulate. The evidence included data from the GPS surveillance, which was corroborated by information obtained by other methods of observation. The applicant appealed, complaining in particular about the use of information obtained by GPS surveillance as evidence. In January 2001, the Federal Court of Justice (Bundesgerichtshof) dismissed his appeal. His subsequent constitutional complaint was dismissed in 2005 by the Federal Constitutional Court (Bundesverfassungsgericht).

The applicant complained that his surveillance via GPS and the use of the data obtained thereby in the criminal proceedings both violated his rights under Article 8, and, having been the essential basis for his conviction, Article 6 § 1.

The Court first observed that the authorities had systematically collected and stored data determining the applicant's whereabouts and movements in the public sphere. They had further used it in order to draw up a pattern of his movements, to conduct additional investigations and to collect additional evidence at the places to which he had travelled, which was later used at the criminal trial. The Court found those factors sufficient to conclude that the GPS observance of the applicant had interfered with his right to respect for his private life under Article 8. The Court considered that the surveillance at issue had a basis in the German Code of Criminal Procedure. The Court underlined that surveillance via GPS of movements in public places was to be distinguished from other methods of visual or acoustical surveillance in that it disclosed less information on a person's conduct, opinions or feelings and thus interfered less with his or her private life. The Court did not see the need to apply the same strict safeguards against abuse it had developed in its case-law on the interception of telecommunications, such as the need to precisely define the limit on the duration of such monitoring or the procedure for using and storing the data obtained. The Court considered that the German courts' unanimous findings that GPS surveillance was covered by domestic law had been reasonably foreseeable given that the relevant provisions provided for technical means to be used, in particular, "to detect the perpetrator's whereabouts". Domestic law set strict standards for authorising GPS surveillance; it could be ordered only against a person suspected of a criminal offence of considerable gravity. The Court welcomed the fact that German law had been changed subsequent to the investigation in the applicant's case to reinforce the protection of the right of a suspect to respect for his private life by requiring a court order for systematic surveillance of a suspect for a period exceeding one month. The Court found that subsequent judicial review of the applicant's surveillance by GPS had offered sufficient protection against arbitrariness in the circumstances of the case as it allowed for evidence obtained from an illegal GPS surveillance to be excluded and thus constituted an important safeguard, as it discouraged the investigating authorities from collecting evidence by unlawful means. The Court concluded that the interference with the applicant's right to respect for his private life had been in accordance with the law. The Court noted that the GPS surveillance had been ordered to investigate several counts of attempted murder for which a terrorist movement had claimed responsibility and to prevent further bomb attacks. It therefore served the interests of national security and public safety, the prevention of crime and the protection of the rights of the victims. It had only been ordered after less intrusive methods of investigation had proved insufficient, for a relatively short period of time and it had affected the applicant only when he was travelling with his accomplice's car. Therefore, he could not be said to have been subjected to total and comprehensive surveillance. Given that the investigation concerned very serious crimes, the Court found that the GPS surveillance of the applicant had been proportionate. The Court unanimously concluded that there had been no violation of Article 8.

Shopov v. Bulgaria (no. 11373/04) (Importance 2) – 2 September 2010 – Violation of Article 5 § 1 – Unlawful admission to a psychiatric hospital – Violation of Article 8 – Lack of judicial review for the applicant's compulsory psychiatric treatment for more than five years

In December 2002, following an application by the applicant's brother on the recommendation of a psychiatrist, the district prosecutor ordered the applicant's committal to a psychiatric hospital for an expert examination of whether he required compulsory medical treatment under the Public Health Act. In April 2003 the District Court decided to admit the applicant to a psychiatric hospital. The applicant appealed against that judgment, arguing that the proceedings had not been fair and that he did not require psychiatric treatment. In October 2003 the Sofia City Court, finding that the applicant did not pose any danger to others, replaced the order for his treatment in hospital with compulsory medical treatment in an outpatient psychiatric clinic. Since the applicant refused to undergo the treatment, he was arrested by the police in December 2003 on the orders of the prosecutor, before being handcuffed and forcibly escorted to the psychiatric hospital. He was given medical treatment and left the hospital in late December. Until September 2009 the applicant periodically attended the outpatient clinic to undergo compulsory psychiatric treatment, in accordance with the judgment of October 2003.

The applicant complained that his admission to the psychiatric hospital had unlawfully and arbitrarily deprived him of his liberty. He also complained that for more than five years he had been forced to undergo psychiatric treatment at the outpatient clinic.

Article 5 § 1

The Court noted that the applicant's admission to the psychiatric hospital against his will from 1 to 29 December 2003 had been ordered by the public prosecutor, although the Sofia City Court had ruled that the treatment was to be provided in an outpatient clinic. The public prosecutor and the police had therefore overstepped the limits of that court's judgment and the applicant's admission to the psychiatric hospital had been unlawful, in breach of Article 5 § 1.

Article 8

The continuing interference with the applicant's right to respect for his private life resulting from his treatment against his will had had a basis in law, namely the 1973 Public Health Act, which provided for the possibility of compulsory psychiatric treatment where there was a risk of serious deterioration of the health of the person concerned. However, in the applicant's case there had been no regular judicial review of the need to continue the treatment, as required by the relevant provision of that Act. The Court found that the applicant's compulsory treatment had been ordered for an indefinite period. Accordingly, the continuation of the applicant's compulsory psychiatric treatment for more than five years had not been in accordance with Bulgarian law, especially as there was no indication that the applicant could have challenged the continuation of the treatment, at least in the period before the entry into force of the 2005 Act repealing the 1973 Public Health Act. The Court concluded that there had been a violation of Article 8.

Kaushal and Others v. Bulgaria (no. 1537/08) (Importance 2) – 2 September 2010 – Violation of Article 8 – Domestic authorities' failure to provide the first applicant with the minimum degree of protection against arbitrariness upon ordering his removal from the country – Violation of Article 13 – Lack of an effective remedy – Violation of Article 1 of Protocol No. 7 in respect of the first applicant – Domestic court's excessively formal examination and failure to gather sufficient evidence as regards the allegations serving as a basis for the decision to expel the first applicant

The applicants are an Indian national, his wife and their daughters all three of whom are Bulgarian nationals. The applicants complained that Mr Kaushal's expulsion from Bulgaria in 2005 on national security grounds and the ensuing separation of their family had violated their rights under Article 8 and that they had had no effective remedies. Mr Kaushal further complained that Bulgaria had not provided the necessary procedural guarantees related to his expulsion.

The Court observed that, the domestic courts accepted that Mr Kaushal had been involved in unlawful activities, referring to the Ministry of the Interior's proposal and failing to carry out any further inquiry into the facts. The domestic courts failed to examine a critical aspect of the case, namely, whether the executive had been able to demonstrate the existence of specific facts serving as a basis for their assessment that Mr Kaushal had presented a national security risk. This was sufficient to lead the Court to the conclusion that the national courts confined themselves to a purely formal examination of the decision to expel Mr Kaushal. The Court noted that they had failed to examine other pieces of evidence to confirm or refute the allegations against him, and rested their rulings solely on uncorroborated information tendered by the Ministry of the Interior. Therefore, the Court found that Mr Kaushal did not enjoy the minimum degree of protection against arbitrariness on the part of the authorities. The interference with the applicants' family life was not therefore "in accordance with the law", as required by Article 8 § 2 of the Convention. In view of this conclusion, the Court was not required to determine whether this interference pursued a legitimate aim and, if so, whether it was proportionate to the aim pursued. There had accordingly been a violation of Article 8. The Court noted that it has repeatedly held that factors such as these had to be taken into account when carrying out an assessment as to whether an expulsion measure was necessary in a democratic society and proportionate to the legitimate aim pursued. As the Supreme Administrative Court's approach fell short of these requirements, and the Sofia City Court failed to examine at all the proportionality of the measures applied against the first applicant, the Court considered that the judicial proceedings did not represent a remedy whereby the applicants could adequately vindicate their right to respect for their family life. The Government have not referred to any other effective remedy that might have been available to the applicants, in violation of Article 13. The Court observed that the national courts failed to gather evidence to confirm or dispel the allegations serving as a basis for the decision to expel the first applicant and subjected this decision to a purely formal examination, with the result that the first applicant was not able to have his case genuinely heard and reviewed in the light of possible arguments militating against his expulsion, in violation of Article 1 of Protocol No. 7 in respect of the first applicant.

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[1]. For a more complete information, please refer to the following link:

- Press release by the Registrar concerning the Chamber judgments issued on 2 Sept. 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.

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Bulgaria	02 Sept. 2010	Iorgov (No. 2) (no. 36295/02) Imp. 2	No violation of Article 3 No violation of Article 5 § 4	The Court considered that it had not been established that the applicant, serving a life sentence, has been deprived of all hope of being released from prison one day (see Report to the Bulgarian Government on the visit to Bulgaria carried out by the CPT 24/06/2004 and Report to the Bulgarian Government on the visit to Bulgaria carried out by the CPT 28/02/2006) Adequate conditions of detention and adequate quality of medical care in detention The review of the lawfulness of the applicant's detention required under Article 5 § 4 was incorporated in the conviction pronounced by the courts	Link
Bulgaria	02 Sept. 2010	Mincheva (no. 21558/03) Imp. 2	Violation of Article 6 § 1 (length) and Article 13 in conjunction with Article 6 § 1 Violation of Article 8	Excessive length of proceedings and lack of an effective remedy Domestic authorities' failure to enforce a judgment giving the applicant visitation rights with her child	Link
Russia	02 Sept. 2010	Timofeyev (no. 12111/04) Imp. 2	Violation of Article 6 § 1 (fairness) No violation of Article 6 § 1 (length)	The appeal hearings were held in the applicant's absence No excessively lengthy periods of inactivity were attributable to the State	Link
Ukraine	02 Sept. 2010	Fedina (no. 17185/02) Imp. 2	Violation of Article 6 § 1	Excessive length of proceedings concerning the investigation into the death of the applicant's son	Link

Ukraine	02 Sept. 2010	Murukin (no. 15816/04) Imp. 2	Violation of Article 5 § 1	The District Court's failure to release the applicant from custody immediately on the date of judgment (after it had imposed a punishment other than imprisonment)	Link

3. **Repetitive cases**

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

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

State	Date	Case Title	Conclusion	Key words
Bulgaria	02 Sept. 2010	Georgieva and Mukareva (no. 3413/05) link Madzharov (no. 40149/05) link Yonkov (no. 17241/06) link	Violation of Article 1 of Prot. 1	Arbitrary deprivation of property and lack of adequate compensation

Russia	02 Sept. 2010	Tayanko (no. 4596/02) link	Violation of Article 6 § 1 Violation of Article 1 of Prot. 1	Quashing of a final judgment in the applicant's favour by way of supervisory review

4. Length of proceedings cases

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

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

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

State	Date	Case Title	Link to the judgment
Bulgaria	02 Sept. 2010	Dzhagarova and Others (no. 5191/05)	Link
Bulgaria	02 Sept. 2010	Konovski (no. 33231/04)	Link
Bulgaria	02 Sept. 2010	Rosen Petkov (no. 65417/01)	Link

Bulgaria	02 Sept. 2010	Velikin and Others (no. 28936/03)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 23 August to 5 September 2010**.

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

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
France	31 Aug. 2010	Gas and Dubois (no 25951/07) link	Alleged violation of Art. 8 in conjunction with Art. 14 (domestic authorities' refusal to allow the first applicant to adopt the second applicant's child on account of their sexual orientation)	Admissible
Romania	28 Aug. 2010	Trăilescu (no 5666/04; 14464/05) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings, hindrance to the applicant's right to access to his personal file), Art. 6 § 2 (infringement of the applicant's right to be presumed innocent), Art. 14 (discrimination on grounds of political affiliation), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the hindrance to the applicant's right to access to his personal file and the lack of an effective remedy), partly incompatible *ratione materiae* (concerning claims under Art. 14), partly inadmissible as manifestly ill-founded (lack of evidence to conclude to the lack of impartiality of the court; domestic courts' sufficient reasoning in refusing certain witnesses in court; reasonable length of proceedings; lack of evidence to conclude that the applicant had been considered guilty for the criminal complaint against him)
Turkey	28 Aug. 2010	Ghorbanov and Others (no 28127/09) link	Alleged violations of Articles 2 and 3 (the applicants' repeated deportation to Iran allegedly exposed them to a real risk of death or ill-treatment in Iran as well as to a risk of being returned to Uzbekistan by the Iranian authorities), Art. 13 (lack of an effective remedy), Art. 3 (ill-treatment by the police during their deportation to Iran), Art. 5 (unlawful deprivation of liberty, violation of right to be informed promptly of the reasons for their detention and deprivation of the right to challenge the detention), Articles 6, 8, 14, and 34, Art. 1 of Prot. 1, Art. 4 of Prot. 4 and Art. 1 of Prot. 7.	Partly adjourned (concerning the summary deportation to Iran, without a deportation order, the lack of an effective domestic remedy in this respect, unlawfulness of deprivation of liberty, right to be informed promptly of the reasons for their detention, and right to take proceedings to challenge the lawfulness of their detention), partly incompatible *ratione materiae* and *ratione personae* (concerning claims under Articles 6, 8, 14 and 34 and Art. 1 of Prot. 1, Art. 4 of Prot. 4 and Art. 1 of Prot. 7), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Turkey	28 Aug. 2010	Altıntaş (no 31866/09; 31878/09) link	Alleged violation of Art. 1 of Prot. 1 (the applicants' inability to enjoy the remaining part of their land which had not been expropriated because of the alleged security restrictions imposed by the military authorities and inadequate compensation), Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy)	Partly adjourned (concerning the length of proceedings and the alleged lack of an effective domestic remedy in that respect), partly inadmissible for non-exhaustion of domestic remedies (concerning the applicants' inability to freely dispose of the remaining part of their land which had not been expropriated), partly inadmissible as manifestly ill-founded (no manifest unfairness in the process of fixing the levels of compensation which appeared to be reasonably related to the value of the applicants' land)

Turkey	28 Aug. 2010	Kesik (no 18376/09) link	Alleged violation of Articles 3 and 13 (ill-treatment in police custody and lack of an effective investigation), Art. 6 § 1 (unfairness and excessive length of proceedings), Art. 6 § 2 (infringement of the applicant's right to be presumed innocent), Art. 6 § 3 a), b), c) and (d) (lack of legal assistance while in police custody and before the public prosecutor), Art. 13 (lack of an effective remedy in respect of allegations under Art. 6)	Partly adjourned (concerning the length of the criminal proceedings and the alleged lack of an effective domestic remedy in that respect), partly inadmissible as manifestly ill-founded (failure to substantiate the complaint concerning the allegations of ill-treatment) and partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Turkey	28 Aug. 2010	Gezener (no 31170/09) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 6 §§ 2, 3 b) and c) (lack of a fair hearing on account of the alleged absence of legal assistance in the initial period of the proceedings and due to the admission in evidence of his statements), Art. 13 (lack of an effective remedy in respect of allegations under Art. 6)	Partly adjourned (concerning the length of the criminal proceedings and the lack of an effective domestic remedy in that connection), partly inadmissible as manifestly ill-founded (failure to substantiate the claims under Art. 6 §§ 1 and 2), and partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Ukraine	28 Aug. 2010	Franko (no 21011/06) link	Alleged violation of Art. 3 (conditions of detention in Lviv SIZO No. 19), Articles 5, 6, 7 and 13 (the outcome of the criminal proceedings against the applicant)	Partly adjourned (concerning the conditions of detention), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)

C. The communicated cases

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

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

- on 13 September 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 13 September 2010 on the Court's Website and selected by the NHRS Unit

The batch of 13 September 2010 concerns the following States (some cases are however not selected in the table below): Austria, Belgium, Croatia, Cyprus, Finland, Georgia, Germany, Hungary, Malta, Moldova, Poland, Romania, Russia, Slovakia, Slovenia, Switzerland, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
Austria	27 Aug. 2010	Jassey no 15950/08	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Gambia
Belgium and Greece	23 Aug. 2010	Qudus and Osmani no 25709/09 and no 66051/09	Alleged violation of Articles 3 and 8 – Risk of being deported to Afghanistan with the family and risk of being subjected to ill-treatment there, if expelled to Greece – Alleged violation of Art. 13 – Lack of an effective remedy
Croatia	23 Aug. 2010	Miljak no 66942/09	Alleged violation of Articles 3 and 8 – Conditions of detention and lack of adequate medical care in detention
Finland	26 Aug. 2010	H.A.U. no 37159/09	To what extent have the Finnish authorities satisfied themselves that the reception conditions of the applicant, if removed to Italy, will comply with the Council Directive 2003/9/EC of 27 January 2003 on the standards for the reception of asylum seekers having regard to the fact that the applicant claims to be an unaccompanied minor and to his account concerning his previous stay in Italy? What steps have the Government taken to ensure that the applicant is over eighteen, as required by and outlined in the Finnish Immigration Service? Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Somalia
Georgia	24 Aug. 2010	Kotchlamazashvili no 42270/10	Alleged violation of Articles 2 and 3 – Lack of adequate medical care in prison – The applicant's infection with AIDS, viral hepatitis and/or pulmonary tuberculosis virus in prison – Conditions of detention in Ksani prison
Georgia	23 Aug. 2010	Chiteishvili no 42281/10	Alleged violation of Art. 3 – Lack of adequate medical care in prison – The applicant's infection with viral hepatitis C in prison
Georgia	27 Aug. 2010	Kviriashvili no 13906/10	Alleged violation of Art. 3 – Conditions of detention in Tbilisi no. 5 prison for women and minors and Rustavi no. 1 prison – Lack of adequate medical care – Alleged violation of Art. 13 – Lack of an effective remedy
Malta	26 Aug. 2010	Mizzi no 17320/10	Alleged violation of Art. 10 – Infringement of the applicant's right to freedom of expression and in particular of the right to impart information on account of the domestic court's judgments finding him guilty of defamation for publishing a letter concerning the country's deceased Prime Minister
Romania	24 Aug. 2010	Trăilescu[1] nos 5666/04 and 14464/05	Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 8 – Hindrance to the applicant's right to access his personal file – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	27 Aug. 2010	Nikolayev no 42250/08	Alleged violation of Art. 3 – Conditions of detention on the premises of the Kirovskiy district police station – Alleged violation of Art. 5 § 1 (c) – Unlawful arrest of the applicant – Alleged violation of Art. 5 § 2 – Failure to inform the applicant promptly of the reasons of his arrest – Alleged violation of Art. 6 §§ 1 and 3 (d) – Hindrance to the applicant's right to obtain the attendance and examination of a witness – Alleged violation of Articles 10 and 11 – The town administration's refusal to accept the notification of a picket in front of the regional electoral commission
Russia	27 Aug. 2010	Korkin and Ladynina no 49539/09	Alleged violation of Art. 8 – The immediate removal of the children from the applicants' custody without a court order and without any adequate opportunity to present their position – The annulment/restriction of the parental rights and the concomitant limitations such as visitation arrangements
Russia	27 Aug. 2010	Perevedentsevy no 39583/05	Alleged violation of Art. 2 (substantive and procedural) – (i) The death of the applicants' son during his military service – (ii) Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	27 Aug. 2010	Plokhova and Plokhov no 45024/07	Alleged violation of Art. 3 – Lack of adequate medical care in military medical institutions – The applicants' mental suffering – Alleged violation of Art. 2 (substantive and procedural) – (i) The death of the applicants' son during his military service – (ii) Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	26 Aug. 2010	Vidish no 53120/08	Alleged violation of Art. 3 – Conditions of detention in Kurgan penitentiary hospital OF-73/3 – Alleged violation of Art. 8 – (i) Hindrance to the applicant's right to respect for family life on account of the restriction to see his children during a long-term family visit – (ii) Infringement of the applicant's right to respect for correspondence with the Court

[1] Please see page 15 for the partial decision on admissibility in this case

the United Kingdom	25 Aug. 2010	L.L. no 39678/09	Alleged violation of Art. 5 – Unlawful detention on account of the applicant's sentence to serve a sentence of youth detention in an adult prison – Alleged violation of Art. 5 § 1 (a), (d) – Unlawfulness of detention in respect of the terms of "youth detention" and detention "for the purposes of educational supervision" – Alleged violation of Art. 14 – Difference of treatment between female young offenders (such as the applicant) and male young offenders as to their place of detention in Jersey
the United Kingdom	25 Aug. 2010	S.S. no 12096/10	Alleged violation of Articles 2 and 3 – Risk of being subjected to ill-treatment if expelled to Afghanistan
Turkey	27 Aug. 2010	Köşebaşi and Others no 56433/08	Alleged violation of Art. 2 (substantive and procedural) – (i) State's responsibility for the death of the applicants' close relative during military service – (ii) Lack of an effective investigation
Ukraine	27 Aug. 2010	Franko[1] no 21011/06	Alleged violation of Art. 3 – Conditions and ill-treatment in detention in Lviv SIZO no. 19
Cases concerning Chechnya			
Russia	27 Aug. 2010	Aziyevy no 30237/10	Alleged violation of Art. 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' close relative – (ii) Lack of an effective investigation – Alleged violation of Art. 3 – The applicants' mental suffering – Alleged violation of Art. 5 – Unacknowledged detention – Alleged violation of Art. 13 in conjunction with Art. 2 – Lack of an effective remedy
Russia	27 Aug. 2010	Ilayeva and Others no 27504/07	Alleged violation of Art. 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' close relatives – (ii) Lack of an effective investigation – Alleged violation of Art. 3 – The applicants' mental suffering – Alleged violation of Art. 5 – Unacknowledged detention – Alleged violation of Art. 13 in conjunction with Art. 2– Lack of an effective remedy

[1] Please see page 17 for the partial decision on admissibility in this case

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

Colloquium on filtering of applications (10.09.2010)

On 10 September 2010 a colloquium was held on the Court's examination of the admissibility of applications. President Costa gave the opening address at this event, being organised at the Court in cooperation with the French National Scientific Research Centre (CNRS), the University of Strasbourg and Prisme.

Visit by a delegation of the Supreme Court of Canada (10.09.2010)

On 9 September 2010 a delegation of the Supreme Court of Canada led by the Right Honourable Beverley McLachlin, Chief Justice of the Supreme Court visited the Court for a working meeting with Judges and members of the Registry. This first visit to the Court was a success. The discussions were very fruitful. In organising the event, the Court was assisted by the Strasbourg City Council.

Part II: The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers held a "human rights" meeting from 14 to 15 September 2010 (the 1092nd meeting of the Ministers' deputies).

Decisions adopted during the meeting:

- ***CM/Del/Dec(2010)1092immediatE / 17 September 2010***

  1092nd (DH) meeting, 14-15 September 2010 - Decisions adopted at the meeting

- ***CM/Del/Dec(2010)1092/1 / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Section 4.3 - 25781/94 Cyprus against Turkey, judgment of 10/05/01 – Grand Chamber

- ***CM/Del/Dec(2010)1092/2 / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Section 4.3 - 46347/99 Xenides-Arestis, judgments of 22/12/2005, final on 22/03/2006 and of 07/12/2006, final on 23/05/2007

- ***CM/Del/Dec(2010)1092/3 / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Section 4.3 - 15318/89 Loizidou, judgment of 18/12/96 (merits)

- ***CM/Del/Dec(2010)1092/4 / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Section 4.3 - 1 case against Italy - 246/07 Ben Khemais, judgment of 24/02/2009, final on 06/07/2009

- ***CM/Del/Dec(2010)1092/5 / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Section 4.3- 379 cases against Ukraine 40450/04 Yuriy Nikolayevich Ivanov, judgment of 15/10/2009, final on 15/01/2010 and Zhovner group

- ***CM/Del/Dec(2010)1092/6 / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Section 4.3 - 1 case against the United Kingdom 74025/01 Hirst No. 2, judgment of 06/10/2005 - Grand Chamber

- ***CM/Del/Dec(2010)1092/7 / 16 September 2010***

  1092nd meeting – 14-15 September 2010 - 1 case against Cyprus and the Russian Federation - 25965/04 Rantsev, judgment of 07/01/2010, final on 10/05/2010

- ***CM/Del/Dec(2010)1092/8 / 16 September 2010***

1092nd meeting – 14-15 September 2010 - Section 4.2 - 1 case against Armenia - 32283/04 Meltex Ltd and Mesrop Movsesyan, judgment of 17/06/2008, final on 17/09/2008

- ***CM/Del/Dec(2010)1092/itemd / 16 September 2010***

  1092nd DH meeting – 14-15 September 2010 - Item d - Measures to improve the execution of the judgments of the European Court of Human Rights - Proposals for the implementation of the Interlaken Declaration and Action Plan

Resolution :

- ***CM/Del/Dec(2010)1092volresE / 20 September 2010***

  1092nd meeting (DH), 14-15 September 2010 - Resolutions adopted

Information Document :

- ***CM/Inf/DH(2010)37E / 06 September 2010***

  Supervision of the execution of judgments and decisions of the European Court of Human Rights: implementation of the Interlaken Action Plan – Modalities for a twin-track supervision system - Document prepared by the Department for the Execution of Judgments of the European Court of Human Rights (DG-HL)

B. General and consolidated information

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

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

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

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

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

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

A. European Social Charter (ESC)

International Colloquy on Social Rights in Seville (21-24.09.2010)

An international colloquy on social rights was held from 21 to 24 September and included presentations by three members of the European Committee of Social Rights: Jean-Michel BELORGEY, Luis JIMENA QUESADA, Petros STANGOS, and two administrators from the Department of the ESC, Mr Régis BRILLAT, Head of Department, and Mrs Isabelle CHABLAIS. Programme

The next session of the European Committee of Social Rights will be held from 18 to 22 October 2010.

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

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

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

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C. European Commission against Racism and Intolerance (ECRI)

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

Denmark: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities (06.09.2010)

A delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities visited Copenhagen and Åbenrå, from 6 - 9 September 2010 in the context of the monitoring of the implementation of this convention in Denmark. This was the third visit of the Advisory Committee to Denmark. The Delegation held meetings with the representatives of all relevant ministries, public officials, NGOs, as well as national minority organisations. The Delegation included Mr. Gáspár BIRÓ (member of the Advisory Committee elected in respect of Hungary) and Ms Barbara WILSON (member of the Advisory Committee elected in respect of Switzerland). They were accompanied by Ms Michèle AKIP, Head of the Secretariat of the Framework Convention for the Protection of National Minorities.

Note: Denmark submitted its third State Report under the Framework Convention in March 2010. Following its visit, the Advisory Committee will adopt its own report (called Opinion), which will be sent to the Danish Government for comments. The Committee of Ministers of the Council of Europe will then adopt conclusions and recommendations in respect of Denmark.

E. Group of States against Corruption (GRECO)

Group of States against Corruption publishes report on "the former Yugoslav Republic of Macedonia" (30.08.2010)

GRECO published on 30 August its Third Round Evaluation Report on "the former Yugoslav Republic of Macedonia", in which it finds a lack of effective implementation of the rules of party financing and the need for some legal improvements in the criminalisation of corruption.

[1] No work deemed relevant for the NHRSs for the period under observation

The report focuses on two distinct themes: criminalisation of corruption and transparency of party funding. Regarding the criminalisation of corruption (theme I report), GRECO recognises that – following legal reform of the Criminal Code – the criminal law of "the former Yugoslav Republic of Macedonia" largely complies with the relevant provisions of the Council of Europe's Criminal Law Convention on Corruption (ETS 173). GRECO identified, however, some aspects of the law which fall short of the standards under review, including several loopholes in the trading in influence offence; the narrow range of possible perpetrators of private sector bribery and the requirement of dual criminality with respect to corruption offences committed abroad. It also stressed the potential for misuse involved in the defence of 'effective regret', which can be invoked when an offender reports a crime after its commission.

Concerning transparency of party funding (theme II report), GRECO stresses that, although the relevant legal framework of "the former Yugoslav Republic of Macedonia" is well-developed and contains a number of strong features, there is in practice a lack of effective implementation of the rules on political financing. GRECO points out that this problem can be attributed to an extremely scattered and overall inefficient system of external supervision.

This, in turn, results in possible infringements to political financing rules not being prosecuted and ultimately sanctioned. Likewise, it is crucial for the credibility of the system that election expenditure limits are duly respected in practice, in particular, by establishing an adequate financial reference period during election campaigns, as well as by ensuring that goods and services granted at discount prices are properly identified and accounted for. The report as a whole addresses 13 recommendations to "the former Yugoslav Republic of Macedonia". GRECO will assess the implementation of these recommendations, in the second half of 2011, through its specific compliance procedure.

Draft agenda of GRECO's 48th PLENARY MEETING in Strasbourg (27.09-01.10. 2010)

Link to the document

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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[1] No work deemed relevant for the NHRSs for the period under observation

Part IV: The inter-governmental work

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

30 August 2010

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

1 September 2010

Georgia signed the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199).

Bosnia and Herzegovina signed the Council of Europe Convention on Access to Official Documents (CETS No. 205).

6 September 2010

Malta signed and ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

B. Recommendations and Resolutions adopted by the Committee of Ministers

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C. Other news of the Committee of Ministers

South-Eastern Europe Youth Gathering in Ohrid (10.09.2010)

Government representatives responsible for youth issues from SEE countries, national members to the European Steering Committee for Youth of the Council of Europe, representatives from National Youth Councils and national umbrella NGOs are gathering in Ohrid to discuss ways and means to promote effective youth participation in democratic and decision-making processes in the region, based on the Council of Europe principles.

[1] No work deemed relevant for the NHRSs for the period under observation

Part V: The parliamentary work

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

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

- *Countries*

PACE President: 'Romania deals successfully with minority issues' (01.09.2010)

At the end of his official visit to Romania (29 August – 1 September) PACE President, Mevlüt Çavusoglu, expressed his appreciation to the country for the successful dealing with minority issues and efforts aiming at increasing the involvement of minorities in the political, economic and social life of the country. He recalled that PACE had recently urged all member States to improve the situation and integration of Roma, protect them from discrimination, and enhance their participation and representation. He said he regretted that some European countries had chosen to deal with this problem in a way which is stigmatising this vulnerable minority and leading to an increase of xenophobic and racist feelings. “In some situations, even legally correct measures can lead to inhuman consequences, in particular if they aim at a whole group of persons,” he concluded.

Low turnout of the Constitutional Referendum in Moldova (06.09.2010)

A delegation from the PACE has observed the constitutional referendum in Moldova on 5 September. This delegation was the only European parliamentary organisation to observe this referendum.

The delegation considered that the voting day was calm and orderly. The citizens who participated in the referendum could in general make their choice freely. However, this delegation regrets the low turnout. It is now up to political stakeholders, regardless of their political positions, to propose solutions to make the functioning of institutions more stable in the general interest of the country and to look beyond their personal or political quarrels. The referendum campaign took place in the context of the political and institutional crisis which followed the 2009 Parliamentary elections. The delegation noted that the referendum campaign had been negatively affected by constant accusations by political stakeholders of different sides who were responsible for the political crisis. The observation delegation notes however with satisfaction that this did not have a negative impact on the behaviour of the supporters either “for” or “against” the referendum, and there were no cases of violence reported during the campaign. The election administration generally demonstrated professionalism and acted in a transparent way. The delegation welcomes the efforts to improve the quality of the voters’ list. However, significant problems with accuracy of voters’ register continue to persist. The observation delegation welcomes the authorities’ efforts aimed at facilitating the participation of the citizens of Moldova, including those citizens residing in foreign countries. The media coverage was generally well balanced, reflecting different points of view. PACE delegation notes with satisfaction the improvements in media coverage of the pre-referendum campaign. According to the PACE delegation, the recommendation by some political parties to boycott the referendum contributed in part to the non-partipation of a significant number of voters.

The PACE delegation stresses the fact that, contrary to the case of elections, it is not completely prohibited for the authorities to intervene in order to support the proposal submitted to referendum. Nevertheless, the delegation strongly condemns all attempts aiming to influence the outcome of the referendum by the authorities (national, regional or local) using excessive and one-sided campaigning or by any other means. The PACE delegation calls on the authorities of Moldova to hold early parliamentary elections in 2010 as the political stakeholders of Moldova committed themselves towards the Council of Europe. This is to ensure all necessary conditions for the free expression of the will of all citizens of Moldova. This delegation expects all political leaders to resolve the political and constitutional deadlock on the election of the President of the Republic of Moldova. PACE will follow closely the further developments in Moldova through its monitoring procedure and will observe the forthcoming elections in 2010.

[1] No work deemed relevant for the NHRSs for the period under observation

PACE committee welcomes 'political will' for ambitious reform in Ukraine, but warns that democratic principles need to be respected (10.09.2010)

The Monitoring Committee of PACE has welcomed the political will being shown by the new government in Ukraine for an "ambitious and far-reaching package of reforms" – but warned that they were being implemented in a hasty manner. In a draft resolution unanimously approved on 9 September at a meeting in Paris, the committee said the reforms needed "wide political consensus and public support", which in turn was only possible if parliamentary procedures and democratic principles were strictly respected.

For the reforms to be successful, government and opposition should also jointly implement constitutional changes first, the committee declared. "Lasting political stability" in Ukraine required a clear separation of powers, as well as a proper system of checks and balances between the executive, legislature and judiciary. The parliamentarians also expressed their serious concern at allegations that democratic freedoms – such as freedom of assembly, expression and the media – have come under pressure in recent months. "Any regression in respect for and protection of these rights would be unacceptable for the Assembly," they said.

The co-rapporteurs, Renate Wohlwend (Liechtenstein, EPP/CD) and Mailis Reps (Estonia, ALDE), intend to return to Ukraine in the near future to discuss their findings and conclusions with the authorities and other relevant parties, if possible before the Assembly debates the report at its forthcoming plenary session (4-8 October 2010).

- *Themes*

PACE Presidential Committee and EP Conference of Presidents discuss EU accession to the Convention (02.09.2010)

At a joint meeting of the PACE Presidential Committee, led by its President Mevlüt Cavusoglu, and the Conference of Presidents of the European Parliament in Brussels ton 2 September, discussions focused on the accession of the EU to the European Convention on Human Rights and in particular the right of the European Parliament to appoint and send a certain number of representatives to PACE when the latter elects judges to the European Court of Human Rights. In this context, participants also stressed the importance of having an informal body in order to coordinate information sharing between the European Parliament and the Parliamentary Assembly.

Sweden praised for 'active role' in Council of Europe and EU reform (03.09.2010)

PACE President Mevlüt Çavusoglu has praised Sweden for its "active role" in both the Council of Europe and the European Union, and urged it to continue supporting the reform processes within both organisations, including EU accession to the European Convention on Human Rights.

President Çavusoglu was attending two seminars on the role of Turkey in the European Union, organised in Stockholm and Göteborg by the Swedish-Turkish Federation.

Child abuse in institutions: more far-reaching measures to grant justice to victims (06.09.2010)

In adopting a report on child abuse in institutions, the Social, Health and Family Affairs Committee of PACE called on 6 September for "more far-reaching measures in the future when it comes to according full justice to victims of past offences". The Committee believes that "more committed action will be required" when it comes to reinforcing legislation on child abuse and applying it to various institutional contexts. The report, drafted by Marlene Rupprecht (Germany, SOC), expresses concern at the "lack of committed action" which has sometimes been observed when it comes to dealing with offences against minors. It recommends that European governments ensure legislative protection by providing for the *ex-offcio* prosecution in cases of child abuse in any context, defining as illegal and excluding certain practices with regard to the punishment of minors in institutions which are contrary to their dignity and rights.

The Committee also calls for reinforcing rules and modalities for the external supervision of various institutions, notably ensuring that institutions are never run and supervised by the same authority. It also advocates the setting up of neutral and independent bodies that children can turn to "whenever they fear they may become victims". The adopted text calls on the Council of Europe member States to sign and ratify the Convention on the protection of children against sexual exploitation and sexual abuse, and invites public authorities and national parliaments to join in the Council of Europe's campaign to stop sexual violence against children, which will be launched in Rome on 29 and 30 November 2010. Draft recommendation

Meeting in Belgrade aims to encourage peace-building efforts in the former Yugoslavia (02.09.2010)

A hearing on “Peace-building in the countries of the former Yugoslavia” was the highlight of a two-day meeting of PACE's Political Affairs Committee in Belgrade on 6-7 September 2010. Topics at the hearing, on Monday afternoon, included the possibility of a trans-national truth commission, justice for war crimes, and EU integration as a catalyst for dialogue. Draft programme of the hearing

‘Many advances’ in reconciliation in the Balkans, but some unresolved issues remain (07.09.2010)

There have been many advances in reconciliation between the countries of the former Yugoslavia over the past few years, but bilateral relations are still fragile, with unresolved issues including territorial disputes and strong nationalistic rhetoric, according to the rapporteur on the topic of PACE, Pietro Marcenaro (Italy, SOC). In an introductory memorandum made public on 6 September, at a meeting of the PACE’s Political Affairs Committee in Belgrade, Mr Marcenaro said the ongoing process of EU integration was “potentially the most important incentive” to reconciliation – a point made earlier by representatives of the Serbian authorities and civil society. Priorities included promoting a public discourse about the war which departed from nationalist rhetoric, and seizing opportunities for regional dialogue and co-operation, he said. Speaking at a hearing on peace-building efforts in the former Yugoslavia, Mr Marcenaro also warmly welcomed what he described as “a major political initiative” by a coalition of NGOs from different Balkan countries to create a regional truth and reconciliation commission, to be established by the political authorities with the participation of all interested parties. This proposal has recently attracted the public support of both the Croatian and Serbian Presidents.

PACE rapporteur on Belarus calls for investigation into death of Oleg Bebenin (07.09.2010)

Sinikka Hurskainen (Finland, SOC), rapporteur on Belarus for PACE, has expressed her concern at the death of Oleg Bebenin, a co-founder of the Charter 97 website in Belarus, on 3 September. “Questions have been raised about the circumstances of his death, and I expect the authorities to conduct a full, transparent and exhaustive investigation into this tragic event,” said Mrs Hurskainen, who met opposition representatives in Minsk. “The Assembly will be following closely the outcome, as well as other developments in Belarus in the run-up to the Presidential election, especially as regards the freedom of the media, and the political freedoms exercised by Belarusian citizens. In the meantime, I send my sincerest condolences to the family and friends of Mr Bebenin.”

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

A. Country work

Need to halt transfers of asylum seekers to Greece: Commissioner Hammarberg intervenes in the Strasbourg Court (01.09.2010)

"Asylum seekers, including persons transferred under the 'Dublin Regulation', face extremely harsh conditions in Greece" said the Council of Europe Commissioner for Human Rights in a hearing on 1 September before the Strasbourg Court concerning the case of an Afghan asylum seeker returned from Belgium to Greece. In his first-ever oral intervention as a third party before the European Court of Human Rights, Commissioner Hammarberg provided his observations on major issues concerning refugee protection in Greece, including asylum procedures and human rights safeguards, as well as asylum seekers' reception and detention conditions. Link to the third party intervention ; Link to the video of the hearing

B. Thematic work

Forced divorce and sterilisation – a reality for many transgender persons (31.08.2010)

"The rights of transgender persons are still ignored or violated. Stronger actions are needed to eradicate discrimination against them" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing on 31 August his human rights comment. "Transgender persons face obstacles in obtaining legal recognition of their preferred gender. Some Council of Europe member States still have no provision at all for official recognition, leaving transgender people in a legal limbo; worse, most member States still use medical classifications which impose the diagnosis of mental disorder on transgender persons." Read the Human Rights Comment

Roma refugees from Kosovo[1]: Commissioner Hammarberg calls on "the former Yugoslav Republic of Macedonia" to do more for their integration (07.09.2010)

"Durable solutions should be pursued and implemented to ensure integration of Roma refugees from Kosovo" said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, publishing on 7 September a letter sent to the Prime Minister of "the former Yugoslav Republic of Macedonia". The letter followed the Commissioner's meeting with the President of the Republic on 25 June in Strasbourg. Read the letter to the Prime Minister of "the former Yugoslav Republic of Macedonia" and the Prime Minister's reply

Anti-Roma rhetoric in Europe: politicians should avoid feeding prejudice (09.09.2010)

The French government has reacted against my statements on anti-Roma rhetoric. This I welcome and hope will encourage a serious discussion. Certainly, I stand by my position as I have stated. Politicians should be very careful about language which can promote further prejudice against the Roma communities. During the ongoing government campaign in France against crime, Roma from other EU countries have been targeted as a "threat against public security". (Read more)

Roma rights: new thematic webpage available (10.09.2010)

The Commissioner has published on 10 September on his website a new thematic page on Roma rights. The page contains documents and photos related to the Commissioner's work in this field and it will be uploaded regularly. Roma rights webpage

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

Part 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)

The National Preventive Mechanisms against torture (NPM) Newsletter (The European NPM Newsletter) Issue Number 5/6 covering June and July was published by the NHRS Unit of the Council of Europe.

The European NPM Newsletter is a review of information deemed relevant for the NPMs of the Council of Europe region. The publication of the European NPM Newsletter is part of the "European NPM Project", which is funded by a Joint European Union - Council of Europe Project entitled the "Peer-to-Peer II Project", with co-funding from the Human Rights Trust Fund.

Each Newsletter Issue covers retrospective news and information, and information on forthcoming activities of the European NPM Project. Further it provides information that the European Network of NPMs would like to share, and presents an issue for discussion which is considered of topical concern to the European NPM Network.