DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS

LEGAL AND HUMAN RIGHTS CAPACITY BUILDING DEPARTMENT

LEGISLATIVE SUPPORT AND NATIONAL HUMAN RIGHTS STRUCTURES DIVISION

National Human Rights Structures Unit

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 15 November 2010

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

Issue n°50 covering the period from 11 to 24 October 2010

Council of Europe **European Union**

Conseil de l'Europe **Union européenne**

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

("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

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

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

TABLE OF CONTENTS

Introduction

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

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

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

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

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

The preparation of the RSIF is 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.

- **Pilot Judgments**

In a pilot judgment, the Court adjourns the cases concerning properties nationalised during the communist era in Romania pending general measures at the national level

Maria Atanasiu and Others v. Romania (link to the judgment in French) (nos. 30767/05 and 33800/06) (Importance 1) – 12 October 2010 – Violation of Article 6 § 1 (concerning the first two applicants) – Infringement of the applicants' right of access to a court on account of the administrative authorities' failure to respond to the restitution claims and the lack of a remedy – Violation of Article 1 of Protocol no. 1 (concerning all applicants) – Domestic authorities' failure to secure the applicants' right to adequate compensation in respect of nationalized properties – The Court held that Romania must take general measures to secure effective protection of the rights guaranteed by these provisions, and adjourned examination of all applications stemming from the same general problem

A series of restitution laws was enacted in Romania following the collapse of the communist regime, based on the principle of restitution in kind, or compensation where restitution was not possible. The compensation was capped during some periods and not during others and was payable in cash at some times and in either cash or shares at others; since 2005 it has been paid through the Proprietatea Fund, which has yet to be listed on the stock exchange. Several hundred thousand individuals in Romania continue to wait for the processing of their claims for restitution or compensation.

The applicants are three Romanian nationals. The first two applicants are the heirs of Mr Atanasiu, the former owner of a building in Bucharest which was nationalised in 1950 and is now divided into several flats. After 1989, relying on the provisions of ordinary law, they secured the return of seven of the flats and compensation in respect of an eighth, the domestic courts having held that the

nationalisation of the building had been unlawful. With regard to the last remaining flat, which is the subject of the case in question, the High Court of Cassation and Justice ("the HCCJ") in March 2005 declared the applicants' action for recovery of possession inadmissible, on the ground that they should have made use of the restitution or compensation procedure applicable at the time under Law no. 10/2001 on the legal status of nationalised property. As they did not receive any reply within the statutory time-limit in response to the claim they lodged under that law for restitution of the flat, the applicants brought proceedings against Bucharest City Council, which in April 2005 was ordered by the HCCJ to give a decision. To date, the applicants' claim for compensation has still not been determined by the city council. The third applicant complained of her inability to obtain compensation on the basis of Law no. 10/2001 (as amended by subsequent texts) for the damage sustained on account of the nationalisation of an area of land for use by the University of Craiova. Mrs Solon applied for compensation to the University, which refused her request in a decision of July 2001. Subsequently, the HCCJ, in a final judgment of March 2006, ruled that Mrs Solon was entitled to compensation in the amount claimed. To date, the applicant has received no compensation. In June 2010 the Romanian Government informed the Court that her claim would receive priority treatment.

The Court decided to deal with the case under the "pilot-judgment" procedure, which is aimed at the overall settlement of large groups of identical cases. The Court has already found over 150 violations in cases of this kind, and several hundred similar cases are pending before it.

The first two applicants complained that they had not had access to a court in order to claim restitution of one of the nationalised flats. All three applicants complained of delays on the part of the administrative authorities in giving a decision on their applications for restitution or compensation.

The Court noted that at the material time, in view of the lack of response from the administrative authorities, the first two applicants had had no possibility of claiming restitution of the flat in question through the Romanian courts. The Court considered that the authorities' failure to reply and the lack of a remedy had imposed a disproportionate burden on the first two applicants which was in breach of their right of access to a court. Subsequently, the HCCJ, in a judgment of 19 March 2007, ruled that, where the administrative authorities failed to reply within the statutory time-limit, the courts could determine claims on the merits in their place and could, if appropriate, order the restitution of the property in question. As the length of the proceedings for restitution or compensation of which the third applicant complained under Article 6 § 1 had resulted from the ineffectiveness of the compensation mechanism, the Court examined her complaint from the standpoint of her right to the peaceful enjoyment of her possessions.

Article 1 of Protocol no. 1

The parties differed as to the point at which people who had lodged claims under the relevant legislation were entitled to restitution of the property concerned or compensation. The Court took the view that entitlement to compensation arose once the domestic courts had established that the person concerned met the requirements laid down by the legislation and had exhausted the available remedies. Accordingly, the applicants had at least a right to compensation amounting to a "proprietary interest" sufficiently established in Romanian law and covered by the notion of a "possession" under Article 1 of Protocol No. 1. The latter was therefore applicable. The Court considered that the need to strike a fair balance between the general interest and the protection of the individual's fundamental rights also applied in the context of far-reaching change linked to reform of the State; however complex such reform, it must not entail consequences at variance with the Convention. In the applicants' case, the final court rulings ordering the authorities to give a decision on the claim lodged by the first two applicants and fixing the amount of compensation due to Mrs Solon had not been enforced to date. The Romanian Government had not given any reasons to justify the failure to secure the applicants' right to compensation. That failure, and the uncertainty as to when the compensation might be paid, had imposed a disproportionate and excessive burden on the applicants which was incompatible with their right to the peaceful enjoyment of their possessions under Article 1 of Protocol No. 1.

Article 46

The Court recalled that under Article 46 the member States undertook to abide by the final judgments of the Court in any case to which they were parties, execution being supervised by the Committee of Ministers. The pilot-judgment procedure, which the Court decided to apply to the present case, was designed to assist the member States in fulfilling their role in the Convention system by resolving structural problems speedily at national level. That entailed an assessment by the Court extending beyond the case of the individual applicant, in the interests of other potentially affected persons. Several judgments by the Court (see for example *Viaşu* and *Faimblat*) had already resulted in findings of a violation of Article 6 § 1 and Article 1 of Protocol No. 1 on account of shortcomings in the Romanian system of compensation and restitution. Those judgments had identified some of the causes of the problems in question, in particular the gradual extension of the reparation laws to cover

virtually all nationalised immovable property, resulting in a heavy workload for the authorities. The simplification of the procedures as a result of Law no. 247/2005 represented a step in the right direction, provided that it was backed up by the appropriate human and material resources. The Court noted, however, that by May 2010, out of a total of 68,355 files registered with the Central Compensation Board, only 21,260 had resulted in a decision awarding a "compensation certificate", and that fewer than 4,000 payments had been made4. While the Court took note of the very substantial cost to the State budget represented by the restitution and compensation scheme, it observed that the listing of the Proprietatea Fund on the stock exchange, which had been due to take place in 2005, had still not been accomplished, although the diversion towards the stock market of some of the claims from persons in receipt of "compensation certificates" would reduce pressure on the budget. In view of the large number of problems which persisted after the adoption of the *Viaşu, Faimblat* and *Katz* judgments, general measures were called for. In that context the Court drew attention to the recommendations of the Council of Europe6 and observed that, while it was not for the Court to determine what measures of redress should be adopted by the State, the former should nevertheless offer suggestions in order to lend the authorities the assistance they had requested. In the present case the Court recommended that simplified and effective procedures be put in place as a matter of urgency on the basis of legislation and of coherent judicial and administrative practice, while striking a fair balance between the interests at stake. The Court took the view that the Romanian authorities should be afforded the degree of discretion required by that exceptionally difficult exercise. It considered the Romanian Government's proposal to establish binding time-limits for each stage in the administrative procedure to be of interest, provided that such measures were realistic and subject to review by the courts. In addition, measures taken by other States might provide a source of inspiration for the Romanian authorities. Those included overhauling the legislation in order to create a more foreseeable compensation scheme, setting a cap on compensation and allowing payment in instalments over a longer period. Since the impact of such a scheme on the entire country was considerable, the Romanian authorities must retain full discretion in the choice of general measures. **As the pilot-judgment procedure was aimed at allowing rapid redress to be afforded at national level to all those affected by the structural problem identified, the pilot judgment could indicate that examination of all similar applications would be adjourned pending the adoption of general measures. In today's case, in view of the very large number of applications concerning similar issues, the Court decided to adjourn examination of those applications for 18 months from the date on which the present judgment became final, pending adoption by the Romanian authorities of measures capable of providing adequate redress to all those affected by the reparation legislation.**

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

Logvinenko v. Ukraine (no. 13448/07) (Importance 2) – 14 October 2010 – Violation of Article 3 (positive obligation) – Lack of medical supervision and treatment for the applicant's tuberculosis and HIV and failure to ensure physical conditions reasonably adapted for his recovery process – Violation of Article 13 – Lack of an effective remedy – A.B. v. Russia (no. 1439/06) (Importance 2) – 14 October 2010 – Two violations of Article 3 – (i) Lack of adequate medical assistance for the applicant's HIV infection in remand prison IZ-47/1– (ii) The applicant's prolonged solitary confinement amounted to inhuman and degrading treatment contrary to Article 3 – Violation of Article 5 § 1 – Unlawful detention

In the first case, prior to the applicant's detention, in 1997, the applicant was diagnosed with tuberculosis of the lungs and, in February 2000, with advanced-stage of HIV (Aids). According to him, throughout the time he spent in detention between 2001 and 2008, he received grossly inadequate medical assistance. In particular, his state of health was not supervised systematically, and neither were the doctors' recommendations to carry out specific medical tests in order to monitor and treat his tuberculosis followed through by the prison authorities. He was never treated for HIV and never underwent specific blood tests crucial for determining whether HIV-therapy needed to be provided without delay. In addition, in terms of the physical conditions of his detention, the applicant in the first case, was mainly locked up in his cell, and had limited opportunities to wash, shave or exercise in the open air. In one of the establishments in which he was kept, the cells were cold and damp, their walls permanently covered with mould and in winter even with frost. As a result, he developed bronchitis, hepatitis and pneumonia, and his tuberculosis became chronic.

In the second case, the applicant was arrested in 2004 on suspicion of swindling and was placed in a remand prison in St Petersburg. Awaiting the end of the investigation in his case, and pending the trial, his detention was continuously extended, the authorities considering that, if released, he might abscond, engage in further criminal activity or hinder the prosecution. He was sentenced to five-and-a-half years imprisonment in October 2006. According to A. B., upon his admission in the remand prison, he was diagnosed as HIV-positive. He had also been suffering from hepatitis C since 1997. His

health began to deteriorate in October 2004, when he was placed in solitary confinement in a cell in the prison wing accommodating prisoners serving life sentences. Without central heating, the temperature in the winter dropped to 7-10oC. Inmates, who were detained in neighbouring cells with A.B., submitted that the cells were in a deplorable state, without ventilation, heating, or hot water, and that medical staff rarely visited them and provided no medication when they did. According to A.B., he never received antiviral treatment for the HIV, neither was he admitted to hospital, due to lack of places. He made many complaints to the authorities about his inadequate medical assistance but received no reply.

Logvinenko case

The Court noted that the applicant's general state of health appeared to have deteriorated during his stay in prison. His tuberculosis had progressed from having been of low intensity and focalised in the upper right lung in the spring of 2001, to being chronic and spread over both lungs with tissue destruction. In addition, by August 2008, the applicant had been diagnosed with other infectious diseases, namely hepatitis and chronic bronchitis. While systematic and strategic medical supervision appeared to have been indispensable in view of the applicant's condition, the Ukrainian Government had clearly not provided it. Although some tests had been carried out and some medication had been given to him, the medical assistance on the whole had not been prompt, coherent or regular. Some of the therapeutic treatment had been provided only after other treatment had proved, over the course of six years, to be ineffective. No alternative treatment for the tuberculosis, which was complementary to the antibiotics, had been provided or envisaged either. As regards the HIV, for over eight years, no tests had been carried out, nor had any discussion about any treatment taken place. Consequently, it might not be excluded that the applicant's recovery from tuberculosis had been impeded by the absence of HIV therapy. In addition, the physical conditions in which he had been detained had not been reasonably adapted to his state of health, in particular given that he had been kept without exercise, adequate access to fresh air, and on occasions, in apparently damp, cold and unhygienic cells. The Court concluded that the applicant had suffered inhuman or degrading treatment as a result of the absence of comprehensive medical supervision and treatment for his tuberculosis and HIV, and the Ukrainian authorities' failure to ensure that he was placed in suitable prison conditions. Accordingly, there had been a violation of Article 3.

A.B. case

The Court noted that an October 2004 decision by the remand prison authorities required the applicant to spend an unspecified period of his detention in solitary confinement, which he had done for at least three years. The authorities had made no attempt to justify his protracted and repeatedly extended detention, nor to assess his physical or psychological aptitude for it. The Court concluded that it was not necessary to examine the physical conditions in which the applicant had been detained as the fact of his solitary confinement was enough to find a violation of Article 3. In addition, regarding the medical assistance provided to the applicant, the Court noted that while the World Health Organisation and national legislation alike had recommended the carrying out of specific blood tests not less frequently than once a year in respect of HIV-positive people, the applicant had never undergone such tests. Given that for over six years the applicant's condition had not been monitored, the Court found deeply disturbing the Russian Government's submission that administering antiretroviral treatment to him had been unnecessary (see also the 11th General Report on the CPT's Activities (2000)). Consequently, the Court held that the applicant had not been provided with the minimum medical supervision for the timely treatment of his HIV infection while in detention. He had been subjected to inhuman and degrading treatment, in violation of Article 3. The Court observed that the national court had extended, on 8 April 2005, the applicant's detention "by one month, namely till 5 May 2005", although one month's detention starting on 8 April would have normally expired on 8 May. Given that the national court had kept referring to the date of 5 May 2005 throughout the proceedings, the Court found it unlikely for that to have been simply a clerical error. Consequently, the Court held that the applicant's detention between 5 and 8 April 2005 had been unlawful, in violation of Article 5 § 1.

Bazjaks v. Latvia (no. 71572/01) (Importance 2) – 19 October 2010 – Violation of Article 3 – First Court's case concerning the detention conditions of convicted prisoners in Latvia – Poor conditions of detention in Daugavpils prison – Violation of Article 13 – Lack of an effective remedy

Convicted in January 1999 of aggravated rape and sexual assault of a 15-year-old girl and sentenced to ten years' imprisonment, the applicant made a number of complaints to the Court concerning the conditions of his detention and ill-treatment while held in custody and subsequently when serving his sentence in Jelgava and Daugavpils prisons. He complained in particular about the conditions of his detention between January 2001 and January 2002 when serving his sentence in Daugavpils prison. He alleged generally poor conditions and lack of personal hygiene products. During that period he

alleged especially bad conditions in a segregation unit (which was damp, cold and infested with insects and rats) and in two disciplinary cells (with lack of light and ventilation and daily-strip searches). According to the applicant, his complaints and protests about those conditions provoked abuse from prison staff. Finally, in January 2002 the applicant was admitted to a prison hospital in Rīga where he received medical treatment for tuberculosis. He was transferred a few months later to Grīva prison to finish his sentence and was released in June 2008. According to the Government the applicant was not abused by prison staff and there were no signs of ill-treatment. They relied on an information note drafted by a prosecutor in 2001 in that regard. In that note, the prosecutor further stated that, due to the fact that 800 convicted prisoners and detainees were held in a prison with a design capacity of 500, minimum standards for prisoners could not be complied with but that that situation was for reasons which went beyond the prison administration's control.

The applicant alleged in particular that the conditions in Daugavpils prison were inhuman and degrading and that he lacked an effective domestic remedy in that regard.

Article 3

As concerned the complaint about the applicant's conditions in Daugavpils prison for a period of one year and 15 days, the Court took particular note of reports by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the "CPT") drawn up following its visits to Latvian prisons in 2001, 2002 and 2004. These reports corroborated the applicant's allegation that his conditions of detention were poor. The CPT had also noted the problem of overcrowding in its reports; and, this problem was even implicitly admitted by the Government in their submission to the Court of the prosecutor's note of 2001 which observed that the prison held 50 per cent more persons than its design capacity. The limited space in the cells in which the applicant had been held had been further exacerbated by the limited freedom of movement outside the cells, poor lighting, ventilation and hygiene. Indeed, although the Court could not conclude for certain that the applicant had contracted tuberculosis in prison, his infection was a characteristic element of the conditions of detention in Daugavpils. Given the cumulative effect of the above factors, the Court considered that the conditions of the applicant's detention had been sufficient to cause him distress and hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and to have aroused in him feelings of fear, anguish and inferiority capable of humiliating and debasing him, in violation of Article 3.

Article 13

The Court found that the Government had failed to prove that the three avenues of complaint under domestic law they had suggested – such as the applicant requesting compensation before a court of general jurisdiction, applying to a prosecutor or bringing private prosecution for minor injuries – could have prevented his inhuman and degrading treatment or provided redress. Accordingly, the Court concluded that there had been a violation of Article 13 on account of the lack of an effective remedy under domestic law for the applicant's complaint about the conditions of his detention in Daugavpils prison.

Karatepe v. Turkey (no. 20502/05) (Importance 2) – 12 October 2010 – Violations of Articles 3 – (i) Ill-treatment in police custody – (ii) Lack of adequate medical treatment in detention – Violation of Article 5 § 1 (c) – Unlawful detention

The applicant was arrested and taken into police custody in October 2003 with about 30 other people for having taken part in a demonstration to protest against the intervention of Turkish forces in Iraq. The following day, when he was taken to the law courts to be questioned by the public prosecutor, he was allegedly struck by a police officer who, after an argument with a lawyer, allegedly slapped the applicant hard on the right cheek, then ran off. The medical report drawn up that same evening showed that the applicant had sustained a cranial traumatism. When he was transferred to a hospital neurology ward, the doctors refused to carry out the recommended tomography because the applicant was unable to pay for it. So he was taken back to the police station. Proceedings were opened against the applicant on various counts.

The applicant complained that a policeman had hit him while he was in police custody in the courthouse and that he had not been given the medical treatment his state of health required and that his detention had been illegal.

Article 3

The Court noted that according to the findings in the medical report of 8 October 2003, the cranial traumatism sustained by the applicant attained the minimum level of severity required to bring it within the scope of Article 3. The hearing had been scheduled, so it was for the authorities to take the necessary steps to uphold law and order. The domestic authorities had not explained the exact

circumstances in which the applicant had been struck, and had given no precise details as to the proportionality of the force used by the police. The public prosecutor in charge of the criminal investigation had failed to clarify whether or not the applicant had resisted the police as he had not ordered a face-to-face meeting between the applicant and the police officers concerned. Before resorting to physical force of the intensity suggested by the injury to the applicant's head, the police officers – who were fully trained members of the "rapid intervention force" – could have used other means of immobilising him. It had not been demonstrated that the applicant had used physical violence against the police officers, even though they had also been injured and their uniforms torn. The Government had failed to show that the force used had not been excessive and that it had been justified in the circumstances. The Court found by six votes to one that there had been a violation of Article 3. As to the medical treatment, the Court noted that the applicant's transfer to the neurology ward for further examination was a medically significant step. The head doctor at the hospital, in insisting that the applicant pay for the procedure, had prevented him from receiving proper treatment. The Court further noted that neither the police nor the public prosecutor had shown any concern about the possible consequences for the applicant's health. The fact that the applicant had not received proper medical treatment – although he had sustained head injuries while in police custody – because he could not pay the corresponding fees had robbed him of his dignity and caused him anxiety and suffering beyond that inevitably associated with any deprivation of liberty, in violation of Article 3.

Article 5 § 1 (c)

The applicant had spent about 25 hours in police custody. The Court noted that his custody had not been extended in conformity with the Code of Criminal Procedure. That was sufficient reason for the Court to find that there had been a violation of Article 5 § 1 (c). Judge Sajó expressed a partly dissenting opinion.

Georgiy Bykov v. Russia (no. 24271/03) (Importance 3) – 14 October 2010 – Two violations of Article 3 (substantive and procedural) – (i) Ill-treatment by the police – (ii) Lack of an effective investigation

The applicant, formerly a military officer, is currently serving a sentence of 15 years' imprisonment for two counts of manslaughter in Semiluki correctional colony following the murders of two military officers with an axe.

The applicant alleged that police officers had severely beaten him following his arrest in July 2001 in order to force him into confessing to the murders and that the ensuing investigation into his complaints about that ill-treatment had been inadequate.

The Court found that the investigation carried out into the applicant's allegations of ill-treatment was not thorough, expeditious or effective. The Court recognised that the investigation is still pending but, considering its length so far and the very serious shortcomings identified above, the Court did not consider that the applicant should have waited for completion of the investigation before bringing his complaint to the Court. Furthermore the Court did not lose sight of the fact that the applicant lodged his application before the Court on 20 May 2003, after the inquiry into his complaints of ill-treatment was closed for the first time. The Court noted that it is mindful of the fact that after 20 May 2003 the prosecution closed the inquiry on two other occasions. Having been closed for the third time on 6 February 2004, the investigation was only reopened in August 2007, after the present case was communicated to the Government. Accordingly, the Court dismissed the Government's objection as to non-exhaustion of domestic remedies, in so far as it concerned the applicant's failure to await the outcome of the domestic criminal proceedings, and held that there has been a violation of Article 3 of the Convention under its procedural limb. The Court reiterated that it has found it established that the applicant was beaten up by police officers and that as a result of that beating he sustained a number of injuries. The Court did not discern any circumstance which might have necessitated the use of violence against the applicant. It has never been argued that the applicant resisted arrest, attempted to escape or did not comply with lawful orders from the police officers. Furthermore, there is no indication that at any point during his arrest or subsequent detention at the police department he threatened the police officers, for example by openly carrying a weapon or by attacking them. It appears that the use of force was retaliatory in nature and aimed at debasing the applicant and forcing him into submission, most probably to obtain a statement from the applicant confessing to the murder. In addition, the treatment to which the applicant was subjected must have caused him mental and physical suffering. Accordingly, having regard to the nature and extent of the applicant's injuries, the Court concluded that the State is responsible under Article 3 on account of the inhuman and degrading treatment to which the applicant was subjected by the police and that there has thus been a violation of that provision.

Petukhov v. Ukraine (no. 43374/02) (Importance 2) – 21 October 2010 – Violation of Article 3 – Lack of adequate medical care in detention – Violation of Article 13 – Lack of an effective remedy in respect of the lack of adequate medical care – Violation of Article 5 §§ 1 and 3 – Unlawfulness and excessive length of detention (more than three years) – No violation of Articles 6 § 1 and 13 – Reasonable length of proceedings due to the complexity of the case

The applicant is currently serving a life sentence in Sokalska Correctional Colony for murder and robbery. Suffering from tuberculosis and a multiple fracture of his left thigh caused by a gunshot wound, the applicant complained about inadequate medical care in detention, about the unlawfulness and excessive length of his detention on remand; about the excessive length of the criminal proceedings against him and the lack of an effective remedy in respect of that complaint.

As for the applicant's suffering from the consequences of the multiple fracture of his left thigh, the Court noted that several consistent medical conclusions in 2002 - 2004 were issued stating that the applicant had needed surgery and special treatment. The Court noted, however, that despite numerous medical prescriptions no such surgery was performed at the initial stage of the applicant's detention and it does not follow from the available materials that the applicant has ever received any particular treatment in respect of his thigh injury prior to 2006 although the deformed metal plate in his leg caused him pain and significant difficulties in walking, which aggravated his general health condition. Taking the applicant's situation as a whole, the Court considered that there has been a violation of Article 3 in respect of the lack of appropriate medical treatment in the present case (see the Report to the Ukrainian Government on the visit to Ukraine carried out by the CPT from 9 to 21 October 2005). The Court concluded that there has been a violation of Article 13 on account of the lack of an effective and accessible remedy under domestic law for the applicant's complaints in respect of his treatment in detention.

The Court noted that the applicant's detention during the periods between 29 November 2001 – 30 October 2002 and 1 November 2002 – 19 June 2003 was not covered by any decisions. In particular, under Ukrainian law in force at the material time, the periods when the applicant was given access to the case file and when his case was referred to the court for trial and until, it was returned to the prosecutor's office were not included in the term foreseen by the law for detention on remand. The Court has previously found a violation in similar cases against Ukraine. The Court did not see any reason to depart from its findings in the present case. Accordingly, there has also been a violation of Article 5 § 1 as regards these periods of the applicant's detention. The Court further noted that on 18 May 2004, the Supreme Court of Ukraine rejected the request to extend the time-limit for the applicant's detention. This time-limit expired the next day, but the applicant remained in detention. After the decision of 18 May 2004 was set aside, the applicant's pre-trial detention was further authorised on 24 May 2004. Therefore, between 19 and 24 May 2004 there was no formal decision authorising the applicant's detention. Even assuming that no such decision was required by the domestic law because, according to the Government, the investigation authorities had transferred the applicant's case file to the court on 19 May 2004 for consideration on the merits, the Court noted that the period of the applicant's detention between 19 and 24 May 2004 was in violation of Article 5 § 1.

The Court also observed that the courts failed to consider the request of the applicant's lawyer to release the applicant on medical grounds and at no stage did the domestic authorities consider any alternative preventive measures to detention. The Court lastly noted that the problem of lengthy pre-trial detention without any relevant reasons and with the domestic authorities simply referring to the gravity of charges has already been found to be incompatible with the requirements of Article 5 § 3 of the Convention in a number of cases against Ukraine. Consequently, there had been a violation of Article 5 § 3 in the present case.

Finally, the Court noted that the applicant's case was a complicated one. It included five accused and concerned eight different counts of burglary, murders and attempted murders and some other crimes. The proceedings took place at three levels of jurisdiction, including the pre-trial investigation. In the absence of any significant periods of inactivity on the part of the State authorities, the Court considered that the length of proceedings in the applicant's case cannot be considered as unreasonable. There had been no breach of Articles 6 § 1 and 13 in respect of the length of proceedings in the applicant's criminal case.

- **Right to liberty and security**

Grosskopf v. Germany (no. 24478/03) (Importance 2) – 21 October 2010 – No violation of Article 5 § 1 – The Court considered that there was a sufficient causal connection between the applicant's conviction and his preventive detention throughout the period at issue

The case concerned the applicant's placement in preventive detention after having served his full prison sentence.

The applicant complained in particular about his placement in preventive detention since February 2002.

The Court referred to its recent judgment in the case of M. v. Germany, where it had found that Mr M.'s preventive detention, having been ordered as in the applicant's case by the sentencing court together with the prison sentence, had been covered by Article 5 § 1 (a), as being detention "after conviction" in so far as it had not been extended beyond the maximum duration of ten years permitted at the time of his offence and conviction. The Court saw no reason to depart from those findings and therefore considered that the applicant's preventive detention was also based on his conviction for the purpose of Article 5 § 1 (a). Unlike Mr M., the applicant had not been detained for a period beyond the maximum duration allowed at the time of his offence and conviction. There remained a sufficient causal connection between the applicant's conviction and the deprivation of liberty at issue. In the 2002 and 2006 proceedings, the courts dealing with the execution of his sentence had found that he was liable to reoffend, given his previous convictions, his conduct in prison and his attitude towards work. Their decisions not to release him had been consistent with the objective of the original judgment of the sentencing court in 1995 ordering his preventive detention, namely to prevent him from committing further serious property offences. The Court reiterated the concerns it had expressed in its judgment in the case of *M. v. Germany* regarding the situation of people in preventive detention. There appeared to be no special measures, instruments or institutions in place, other than those available to ordinary long-term prisoners, directed at those subject to preventive detention and aimed at reducing the danger they presented. Nevertheless, the domestic courts' decisions that it had been necessary to extend the applicant's preventive detention could not be considered as unreasonable in terms of the objectives of the preventive detention order. He had not only refused to undergo any therapy, there had also been no other signs that he reappraised his criminal past nor any indication that other measures were at hand to effectively prevent him from committing further serious property offences. The Court unanimously concluded that there had been no violation of Article 5 § 1.

- **Right to fair trial**

Brusco v. France (no. 1466/07) (Importance 2) – 14 October 2010 – Violation of Article 6 §§ 1 and 3 – Infringement of the applicant's right to remain silent and not to incriminate himself

After being attacked by two hooded individuals in the underground car park of his apartment building in December 1998, B.M. lodged a complaint against his wife and the applicant (whom he alleged were having an affair). The applicant was questioned by the police about the incident. In June 1999 the two presumed aggressors were taken into police custody and placed under investigation. On 7 June 1999 the applicant was taken into police custody. He was made to swear "to tell the truth, the whole truth and nothing but the truth", as witnesses could be required to do under national law. He was then questioned by the police. He confessed to having been involved in the incident and having hired two men to "scare" B.M. and make him leave his wife alone and stay away from his daughter. He admitted to having paid them 100,000 French francs (about 15,000 euros) and given them his description. However, he firmly denied having asked them to use physical violence against B.M. or agreed to them using it. At the end of his police custody the applicant was placed under investigation for aiding and abetting attempted murder, and remanded in custody. The Law of 9 March 2004 did away with the obligation for a person in police custody under a warrant issued by an investigating judge to give evidence under oath.

The applicant complained that he had been obliged to take an oath before being questioned, and that he had been deprived of the right to remain silent and not to incriminate himself.

The Court began by stressing the importance of the right to remain silent and the right not to incriminate oneself, which are generally accepted international legal principles at the heart of the notion of a fair trial. It then noted that when the applicant had been made to swear "to tell the truth, the whole truth and nothing but the truth", he had been in police custody. However, at the time when the applicant was questioned in police custody one of the presumed aggressors had already identified him as the mastermind behind the attack, and the victim had lodged a complaint against him. The authorities had therefore had reason to suspect him of being involved in the offence. Accordingly, in the Court's opinion the argument that the applicant had merely been a witness – which was why he had been asked to take an oath – was purely formalistic and therefore unconvincing. In actual fact, when the applicant had been taken into custody and made to swear an oath, "criminal charges" had been brought against him and he should therefore have had the right to remain silent and not to incriminate himself, as guaranteed by Article 6 §§ 1 and 3 of the Convention. The applicant was convicted on the basis of the statements he had made under oath. The Court found that the fact that he was made to take an oath before answering the questions of the police amounted to a form of pressure on the applicant (who had been in police custody since the previous day), and that the threat of criminal proceedings should he be found to have committed perjury must have placed him under

even greater pressure. The Court also noted that the law had changed in 2004 and that the obligation to swear an oath and answer questions was no longer applicable to people placed in police custody under a warrant issued by an investigating judge. Furthermore, the applicant had not been informed at the start of the interview that he had the right to remain silent, not to answer any questions or to answer only those questions he wished to answer. In addition, he had been allowed the assistance of a lawyer only after 20 hours in police custody. His lawyer had thus been unable to inform him, before he was questioned, of his right to remain silent and not to incriminate himself, or to assist him when he was questioned on that and subsequent occasions, as required under Article 6. The result had been an infringement of the applicant's right to remain silent and not to incriminate himself, in violation of Article 6 §§ 1 and 3.

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

A v. Croatia (no. 55164/08) (Importance 1) – 14 October 2010 – Violation of Article 8 (positive obligation) – Domestic authorities' failure to implement measures ordered by the national courts, aimed at providing the applicant with protection against further violence from her mentally-ill and aggressive ex-husband

The case concerned the applicant's complaint that the authorities had failed to protect her against the domestic violence of her mentally-ill ex-husband despite their having been aware of his repeated physical and verbal assaults and death threats. The applicant is currently living in hiding from her ex-husband. They have a daughter together, who was born in 2001. Their marriage was dissolved in 2006. According to two psychiatric reports of 2004 and 2008, the applicant's ex-husband, who was captured in 1992 during the Homeland War and detained in a concentration camp where he was tortured, suffers from severe mental disorders, including anxiety, paranoia, epilepsy and post-traumatic stress disorder. The reports emphasized his tendency towards violence and impulsive behaviour, and recommended compulsory psychiatric treatment. Between November 2003 and June 2006, the applicant's ex-husband subjected her to repeated violent behaviour. The violence was both verbal, including serious death threats, and physical, including hitting and kicking the applicant in the head, face and body, causing injuries. B often abused the applicant in front of their daughter and, on several occasions, turned violent towards her too. Between 2004 and 2009 the national courts and the applicant brought a number of separate proceedings against the applicant's ex-husband in the context of which they ordered certain protective measures such as periods of pre-trial detention, psychiatric or psycho-social treatment, restraining and similar orders. Some protective measures were implemented and others were not. The applicant's ex-husband has not yet served an eight month term of imprisonment handed down to him in October 2006 in which he was found guilty of making death threats against the applicant and a policewoman. The applicant further informed the courts in October 2007 that her ex-husband, in violation of a restraining order against him, had hired a private detective who had come to her secret address. Her request for an additional protective measure prohibiting him from harassing and stalking her was dismissed on the ground that she had not shown an immediate risk to her life. The applicant's ex-husband was arrested in September 2009 and is apparently still in detention following his conviction in October 2009 and sentencing to three years' imprisonment for making death threats against a judge (and her small daughter) involved in one of the sets of criminal proceedings brought against him for domestic violence. It is not known though where he is being held or whether he is being provided with any psychiatric treatment.

The applicant complained about the authorities' failure to adequately protect her against domestic violence. She also alleged that the relevant laws in Croatia regarding domestic violence were discriminatory.

First, the Court found that the applicant would have been more effectively protected from her ex-husband's violence if the authorities had had an overview of the situation as a whole, rather than in numerous sets of separate proceedings. Although the courts did order protective measures, many of them – such as periods of detention, fines, psycho-social treatment and even a prison term – have not been enforced, thus undermining the very deterrent purpose of such sanctions. Indeed, the recommendations for continuing psychiatric treatment, made quite early on, were complied with as late as in October 2009 and then only in the context of criminal proceedings unrelated to the violence against the applicant. In addition, it is still uncertain whether the applicant's ex-husband has as yet undergone any psychiatric treatment. Therefore, the authorities' failure to implement measures ordered by the national courts, aimed on the one hand at addressing B's psychiatric condition, apparently at the root of his violent behavior, and on the other hand at providing the applicant with protection against further violence, has left her for a prolonged period in a position in which her right to respect for her private life has been breached, in violation of Article 8.

Özpınar v. Turkey (no. 20999/04) (Importance 2) – 19 October 2010 – Violation of Article 8 – Unfair dismissal of a judge following arbitrary proceedings – Violation of Article 13 – Lack of an effective remedy

The applicant became a judge in 1997. In 2002 a disciplinary investigation was opened against her following an anonymous complaint "on behalf of a group of patriotic police officers". The public prosecutor and the representative of the Commissioner of Police for Gülnar also filed complaints against her for her alleged close relationship with a lawyer, whose clients had allegedly benefited from favourable decisions on her part, her repeated lateness for work and her unsuitable clothing and make-up. Testimony was taken from about 40 witnesses, who gave contradictory statements, and the cases that the applicant had dealt with as a judge were examined. No information from the investigation was disclosed to the applicant. The disciplinary investigation file was transmitted to the National Legal Service Council (the "Council"), which decided in 2003 to remove the applicant from office as a judge, mainly on the grounds that "by her inappropriate attitudes and relationships" she had "undermined the dignity and honour of the profession". A request by the applicant for a review of that decision was denied, without her being informed. She then challenged her dismissal, which was confirmed by the Council in 2004, after a hearing in which she had taken part. She was notified of the refusal to reinstate her but was not told the reasons for that decision.

The applicant alleged that her dismissal by the National Legal Service Council had been based on aspects of her private life and that no effective remedy had been available to her. She also complained of sex discrimination.

Article 8

The Court reiterated that the notion of "private life" did not exclude professional activities: restrictions in that area could have repercussions for the development of a person's relationships with other human beings and therefore for his or her social identity. In the case of the applicant the dismissal decision had been directly related to her conduct both professionally and in private. Moreover, her right to respect for her reputation, as protected by Article 8, had been at stake. There had therefore been an interference with the applicant's right to respect for her private life and it could be said to have had a legitimate aim in relation to the duty of judges to exercise restraint in order to preserve their independence and the authority of their decisions. The ethical duties of judges might encroach upon their private life when their conduct tarnished the image or reputation of the judiciary. As regards the criticisms, in the proceedings against the applicant, concerning her conduct as a judge, they had not constituted interference with her private life. However, the applicant nevertheless remained a private person entitled to Article 8 protection. The Court noted that even if certain aspects of the conduct attributed to her might have warranted her dismissal, the investigation had not substantiated those accusations and had taken into account numerous actions by the applicant that were unrelated to her professional activity. Moreover, she had been afforded few safeguards in the proceedings against her, whereas any judge who faced dismissal on grounds related to private or family life must have guarantees against arbitrariness, and in particular a guarantee of adversarial proceedings before an independent and impartial supervisory body. Such safeguards were all the more important in the case of the applicant as, with her dismissal, she automatically lost the right to practise law. The applicant had appeared before the Council only at the point when she had challenged the dismissal and she had not received beforehand the reports of the inspector or of the witness testimony. The Court found that there had been a violation of Article 8, as the interference with the applicant's private life had not been proportionate to the legitimate aim pursued.

Article 13 in conjunction with Article 8

The Court had previously found that the impartiality of the Council's panel that examined challenges to its decisions was highly questionable, because the panel included members who had taken part in the dismissal decisions themselves. Furthermore, during the proceedings, no distinction had been made between aspects of the applicant's private life that bore no direct connection with her duties and those that did. Accordingly, the applicant had not had access to a remedy meeting the minimum requirements of Article 13 for the purposes of her Article 8 complaint. The Court found that there had been a violation of Article 13 in conjunction with Article 8. Judges Sajó and Popović expressed a separate opinion.

- **Freedom of expression**

Saliyev v. Russia (no 35016/03) (Importance 1) – 21 October 2010 – A violation of Article 10 – Domestic authorities' failure to provide adequate justification for the withdrawal from sales of copies of a municipally-owned newspaper on account of a politically sensitive article

The case concerned the withdrawal from sale of copies of a municipally owned weekly newspaper at the request of the editor-in-chief on account of the politically sensitive content of an article.

The applicant complained that the newspaper copies with his article had been withdrawn for political reasons, amounting to political censorship.

The Court noted that copies of the newspaper had been withdrawn and destroyed after the article had been accepted by the editorial board, and after it had been printed and made public. After publication, any decision limiting the circulation of the applicant's article had to be regarded as an interference with his freedom of expression. Further, the main reason for the withdrawal had been the content of the article. The Russian Government had conceded that the editor-in-chief had withdrawn the newspapers for fear of possible civil or administrative sanctions. The withdrawal therefore amounted to an interference with the applicant's rights under Article 10. From the evidence before it, the Court saw no reason to depart from the domestic courts' findings that the withdrawal had been ordered by the newspaper's editor-in-chief. He had been appointed and paid by the municipality, which, holding the newspaper's assets, moreover had the right to shape its editorial policy to a certain extent. It appeared that the editor-in-chief's decision had been motivated by his own perception of the situation and the possible negative consequences of the article, without a state authority having expressed dissatisfaction with it. Nevertheless, given the fact that he was required to ensure the loyalty of his newspaper to the municipality and its policy line, his decision could be characterised as an act of policy-driven censorship. The Court was not convinced by the Government's argument that the municipality was not a State authority for the purpose of the Convention, given that under Russian law municipal authorities were treated on the same footing as federal or regional bodies for many purposes. The interference with the applicant's rights could therefore be attributed to a State authority. Domestic law entitled editors-in-chief to decide on questions relating to the distribution of a newspaper. The decision to withdraw the copies could therefore be considered as lawful. The Court was also prepared to accept that the decision pursued the legitimate aim of protecting "the reputation or rights of others" for the purpose of Article 10, namely the State officials and managers of the local energy company targeted by the article. As to the question whether the withdrawal had been "necessary in a democratic society", the Court underlined that the applicant had reported on a matter relating to the management of public resources, lying at the core of the media's responsibility and the right of the public to receive information. The domestic courts had not addressed the question whether he had exceeded the limits of permissible criticism or analysed the content or the form of the article at all, but had simply treated the applicant's complaint as a business matter. The Court pointed out that the relationship between a journalist and an editor-in-chief is not only or always a business relationship and in the applicant's case it was not such a relationship, as the newspaper was, according to its own charter, a municipal institution aiming to inform the public about local social, political and cultural issues. The domestic courts had therefore failed to give a justification for the withdrawal from the standpoint of Article 10. The critical views expressed in the applicant's article were moreover reasonably supported by facts which had never been challenged. The Court unanimously concluded that there had been a violation of Article 10.

Nur Radyo Ve Televizyon Yayıncılığı A.Ş. v. Turkey (no. 2) (no. 42284/05) (Importance 2) – 12 October 2010 – Violation of Article 10 – Revoking of a radio station's licence for broadcasting religious programs was not "necessary in a democratic society"

The applicant radio company was based in Istanbul at the time of the events. In February 2002 the Turkish Broadcasting Authority (the "RTÜK"), revoked its broadcasting licence. The decision was based mainly on the fact that, despite six temporary broadcasting bans for programs that had breached the constitutional principle of secularism or had incited hatred, the applicant company had continued to broadcast the religious programs in question.

The applicant company argued in particular that the revocation of its broadcasting licence had constituted an unjustified interference with its right to freedom of expression, as guaranteed by Article 10.

The Court noted that it was not in dispute that the revocation of the broadcasting licence constituted an "interference" with the applicant company's right to freedom of expression. The main question for the Court was whether that interference could be regarded as "necessary in a democratic society". The decision to revoke the broadcasting licence had been taken by the RTÜK on account of the repetition of the offences of which the applicant company was accused: in particular, after being banned temporarily for six offences, it was found to have committed a further offence by broadcasting its programme of November 2001. The Court noted that this had been a pirate broadcast, via satellite and terrestrial links, using a frequency that had not been allocated to the company and that came from Bursa, whereas the radio's broadcasting centre was in Istanbul. However, as regards the pirate broadcast in question, the Istanbul Criminal Court had acquitted the managers of the company for lack

of evidence. The Court thus took the view that it had been arbitrary to include the seventh programme in the aggregate assessment of the offences that led to the revocation. It concluded that the additional penalty imposed on the applicant on the basis of offences for which other sanctions had already been imposed was not compatible with the principle of the rule of law. Lastly, it noted that the request for review of the decision revoking the broadcasting licence had been pending for over four years before the administrative courts. The Court accordingly found that the breach of the freedom of expression of the applicant company had not been necessary in a democratic society and that there had been a violation of Article 10.

Saaristo and Others v. Finland (no. 184/06) (Importance 2) – 12 October 2010 – Violation of Article 10 – Interference with the applicants' right to freedom of expression on account of their conviction for publishing an article on an important matter of public interest

The case concerned the applicants' conviction and order to pay damages for publishing information about the private life of O.T., the communications manager of Esko Aho, one of the presidential candidates during the 2000 election campaign.

The applicants complained that their right to freedom of expression had been violated.

The Court underlined that to fulfill its essential function in a democratic society the duty of the press was to impart information and ideas on all matters of public interest. Journalistic freedom also covered possible recourse to a degree of provocation. The limits of permissible criticism were wider for politicians than for private individuals, the former laying themselves open to public scrutiny and therefore having to display a greater degree of tolerance. The applicants had been convicted and fined on the basis of remarks made in an article in their capacity as journalists. In the article, the facts on O.T.'s function in the election campaign and her new relationship with the former husband of a political reporter had been presented in an objective manner. There was no evidence or allegation of factual misrepresentation nor was there any suggestion that details about O.T. had been obtained by illicit means. While O.T. was not a civil servant or a politician in the traditional sense, she was not a completely private person either, given that due to her function in the election campaign she had been publicly promoting the objectives of one of the presidential candidates. When taking up her duties as communications manager for the campaign, she had to have understood that her own person would also attract public interest and that the scope of her protected private life would become more limited. The Court found that the Finnish Supreme Court had not given sufficient weight to the political nature of her functions and to the public context in which she discharged them. The article had contributed to an important matter of public interest, namely the presidential election campaign, in the form of political background information. The fact that the former spouse of O.T.'s new partner had conducted election debates on TV and that the article intended to affect the campaign were of relevance in this context. The Court further noted that the sanctions imposed on the applicants had been severe. The applicants had been convicted under criminal law and the amount that they were ordered to pay as compensation had to be considered as substantial, given that the maximum compensation afforded to victims of serious violence had been around 17,000 euros at the time. In the Court's opinion, the domestic courts had failed to strike a fair balance between the competing interests at stake. The reasons relied on for the criminal conviction of the applicants had not been sufficient to show that the interference with their freedom of expression had been necessary in a democratic society and the totality of the sanctions imposed had been disproportionate to the protection of O.T.'s right to respect for her private life. The Court unanimously held that there had been a violation of Article 10.

- **Freedom of assembly**

Alekseyev v. Russia (nos 4916/07, 25924/08 and 14599/09) (Importance 1) – 21 October 2010 – Violation of Article 11 – Repeated bans on gay-rights parades in Moscow had not been "necessary in a democratic society"– Violation of Article 13 – Lack of an effective remedy – Violation of Article 14 – Discrimination on grounds of sexual orientation

The case concerned the complaints by a Russian gay-rights activist about a repeated rejection by the Moscow authorities of his requests to organise gay-pride parades, which were aimed at drawing public attention to the discrimination against the gay and lesbian community in Russia and to promoting tolerance and respect for human rights.

The applicant complained about the repeated ban on holding the gay-rights marches and pickets, about not having an effective remedy to challenge those bans, and about them being discriminatory because of his and the other participants' sexual orientation.

Article 11

The Court recalled that Article 11 protected non-violent demonstrations which might annoy or offend people who did not share the ideas promoted by the demonstrators. It also stressed that people had to be able to hold demonstrations without fearing that they would be physically aggressed by their opponents. At the same time, the mere risk of a demonstration creating a disturbance was not sufficient to justify its ban. If every probability of tension and heated exchanges between opposing groups during a demonstration resulted in the demonstration's prohibition, society would be deprived of hearing differing views on questions which offended the sensitivity of the majority opinion, and that ran contrary to the Convention principles. The Moscow authorities had repeatedly, over a period of three years, failed to adequately assess the risk to the safety of the participants and public order. Although counter protesters could have taken to the streets to oppose the gay-pride marches, the Moscow authorities should have made arrangements to ensure that both events went on peacefully and lawfully, allowing both sides to express their views without a violent clash. Instead, by banning the gay pride marches, the authorities had effectively approved of and supported groups who had called for the disruption of the peaceful marches, in breach of law and public order. The Court further noted that the considerations of safety had been of secondary importance for the decisions of the authorities who had been mainly guided by the prevailing moral values of the majority. The Moscow mayor had on many occasions expressed his determination to prevent gay parades, as he found them inappropriate. The Russian Government had also stated in their submissions to the Court that such events had to be banned as a matter of principle because gay propaganda was incompatible with religious doctrines and public morals, and could harm children and adults who were exposed to it. The Court stressed that if the exercise of the right to peaceful assembly and association by a minority group were conditional on its acceptance by the majority, that would be incompatible with the values of the Convention. The purpose of the gay pride demonstrations had been to promote respect for human rights and tolerance towards sexual minorities; they had not intended to include nudity or obscenity, nor to criticise public morals or religious views. In addition, while no European consensus had been reached on questions of adoption by or marriage between homosexual people, ample case law had shown the existence of a long-standing European consensus on questions such as the abolition of criminal liability for homosexual relations between adults, on homosexuals' access to service in the armed forces, to the granting of parental rights, to equality in tax matters and the right to succeed to the deceased partner's tenancy. It was also clear that other Convention member States recognised the right of people to openly identify themselves as gay and to promote their rights and freedoms, in particular by peacefully and publicly gathering together. The Court emphasised that it was only through fair and public debate that society could address such complex issues as gay rights, which in turn would benefit social cohesion, as all views would be heard. An open debate of the kind, which had been exactly the type of event the demonstrators had attempted to organise unsuccessfully many times, could not have been replaced by Moscow's official figures expressing uninformed views considered to be popular. Consequently, the bans imposed on the holding of gay-rights marches and pickets had not been necessary in a democratic society, and had been in violation of Article 11.

Article 13

The Court noted that there had been no legally binding rule obliging the authorities to decide on the holding of the marches before the dates on which those had been planned. There had been no effective remedy available to the applicant that could have provided adequate redress in respect of his complaints, in violation of Article 13.

Article 14

The Court observed that the main reason for the bans on the gay marches had been the authorities' disapproval of demonstrations which, they considered, promoted homosexuality. In particular, the Court could not disregard the strong personal opinions publicly expressed by the Moscow mayor and the undeniable link between those statements and the bans. The Court found that, as the Government had not justified their bans in a way compatible with the Convention requirements, the applicant had suffered discrimination because of his sexual orientation, in violation of Article 14.

2. Judgments referring to the NHRSs

Gaforov v. Russia (no 25404/09) (Importance 2) – 21 October 2010 – Violation of Article 3 – Risk of being subjected to ill-treatment if expelled to Tajikistan – If the extradition order were to be implemented, Russia would be in violation of Article 3 – Violation of Article 5 §§ 1 and 4 – Unlawful detention pending extradition and lack of a remedy to challenge the lawfulness of the detention

The applicant is a Tajikistani national. Since he became unemployed in 2005, he started earning his living by printing various texts for people, using his computer; the texts printed included academic papers and extracts from the Koran. In 2005, several people were arrested on suspicion of belonging

to Hizb ut-Tahrir ("HT"), a transnational Islamic organisation banned in Russia, Germany and some Central Asian republics. The applicant denied belonging to HT. He was arrested in 2006 following the opening of criminal proceedings against him on suspicion of membership of an extremist organisation. According to the applicant, after his arrest he was kept in a basement of the Ministry of National Security for about three months, where he was systematically beaten and tortured, at least six times, with electricity. He was hardly fed, had no bed and was not allowed to use the toilet for prolonged periods. He managed to escape and hid in Tajikistan, and after spending some time in Kyrgyzstan, moved to Russia in 2007. His name was put on a wanted list in Tajikistan and the criminal proceedings against him were suspended. The applicant was arrested in Moscow in 2008 as someone wanted by the Tajikistani authorities. A request for his extradition to Tajikistan was received, in September 2008, by the Russian Prosecutor General's Office which ordered his extradition in December 2008. The applicant challenged, unsuccessfully, that decision, claiming he would be tortured if extradited. His subsequent further related appeals were also dismissed. In October 2008, the applicant applied for asylum, which was refused in December of the same year. All his appeals against it were dismissed. The Tajikistani authorities submitted assurances in February 2009 that they would not persecute the applicant on political, ethnic, linguistic, racial or religious grounds and that he would not be tortured or otherwise ill-treated. The applicant was placed in custody pending extradition in August 2008. The courts ordering his detention did not set a time-limit for it. He complained, unsuccessfully, to various courts and to the Prosecutor General about having been detained unlawfully, in excess of the maximum period set in law (two months that can be extended to six months).

In January 2010 the Ombudsman to the President of the Russian Federation ("the Ombudsman") wrote to the Prosecutor General of the Russian Federation stating, in particular, that the Court had recently found a breach of Article 5 on account of the unsatisfying quality of the law in several cases involving persons detained pending extradition. Yet the practice continued, in breach of the applicable Russian legislation, of keeping in custody foreign nationals whose detention on remand had not been extended. The Ombudsman opined that the problem lay in the domestic authorities' inconsistent practice in applying the relevant legislation, and had persisted even after the Constitutional Court's Ruling no. 101-O and the Supreme Court's Ruling no. 22. The Ombudsman referred to the *Yuldashev, Isakov, Khaydarov* and *Sultanov* cases, which were pending before the Court, in which the term of the applicants' detention pending extradition had exceeded the eighteen-month maximum term laid down in Article 109 of the CCrP. The Ombudsman further stressed that on 5 February 2010 the eighteen-month maximum detention term was about to expire for the applicant in the present case and that the domestic courts had twice authorised his remand in custody without setting any time-limit for his detention. **He also stated that the Government were justifying the detention on remand of the applicants in the above-mentioned cases by the fact that the Court had indicated to them under Rule 39 to suspend their extradition. However, nothing in the Court's Rules provided for the respondent State's obligation to hold detainees whose extradition was suspended in custody in breach of the Russian legislation. Lastly, the Ombudsman asked the Prosecutor General to carefully examine the situation of the persons mentioned in his letter, in particular with regard to the extension of their detention for an unlimited period of time, and to further improvement of the legislation and its correct application in order to prevent possible violations of the Convention**. By a letter of 8 February 2010 the Deputy Prosecutor General of the Russian Federation replied to the Ombudsman.

It is a matter of concern for the Court that, as transpires from the correspondence between the Ombudsman and the Prosecutor General's Office, the domestic authorities involved in the control and supervision of the detention pending extradition, and, in particular, the national courts, appear to remain in a state of uncertainty as regards the application of the relevant legislation.

The applicant complained of the risk that he be tortured if extradited to Tajikistan, as well as about having been detained unlawfully, not having had the possibility to effectively challenge before a judge his detention and about the decisions related to his extradition having breached his right to be presumed innocent.

Article 3

The Court was satisfied that the applicant had complained of the risk of ill-treatment in case of extradition to Tajikistan both in the extradition and asylum proceedings. However, the authorities deciding on his extradition and asylum had disregarded those complaints, thus having failed to adequately assess the risk of ill-treatment if he were to be extradited. Examining whether there had been a real risk of ill-treatment, the Court noted that evidence from objective sources had indicated that torture in police custody in Tajikistan had been systematic and widespread. The applicant was wanted by the Tajikistani authorities on account of his alleged participation in Hizb ut-Tahrir, and, as

the Court had itself found in a recent judgment, there had been serious reasons to believe that Hizb ut-Tahrir supporters were persecuted in Tajikistan. The Court found that the applicant's submissions concerning his ill-treatment while in custody in Tajikistan were consistent and the credibility of his account was supported by evidence analysed by the Court. Given that the diplomatic assurances presented by the Tajikistani authorities were not in themselves sufficient to ensure that the applicant would not be ill-treated, the Court concluded that, if extradited, he could seriously risk ill-treatment. Accordingly, the Court held that if the extradition order were to be implemented, Russia would be in violation of Article 3.

Article 5 § 1

The Court observed that the applicant had been detained for the first time in August 2008 on the basis of an arrest warrant issued by a Tajik court; he was placed in custody for a second time in September 2008 following a formal request for his extradition. In the absence of any court decision extending his detention, however, after the expiry of the maximum six-month period authorised in law, namely as from 4 February 2009, he had been detained in breach of the applicable Russian criminal law provisions. Lastly, the Court would like to stress that it is perplexed by the Government's assertion that the domestic authorities had been obliged to hold the applicant in custody because it had indicated to them under Rule 39 of the Rules of Court to suspend his extradition. It emphasised that it has already held that this argument cannot be employed as a justification for the indefinite detention of persons without resolving their legal status (see *Yabikin*). **It also noted that the Russian Ombudsman took the same position when drawing the Prosecutor General's attention to the irregularities in the legal basis of the applicant's detention.** Consequently, the applicant's detention pending extradition could not be considered lawful, and there had therefore been a breach of Article 5 § 1.

Article 5 § 4

The Court found that the applicable Russian law did not make it possible for the applicant to have the lawfulness of his detention examined by a court throughout the time during which he had been detained pending extradition. There had therefore been a violation of Article 5 § 4.

3. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 12 Oct. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 14 Oct. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 19 Oct. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 21 Oct. 2010: here

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Austria	14 Oct. 2010	Kugler (no. 65631/01) Imp. 2	Violation of Art. 6 § 1 (length) Violation of Art. 6 § 1 (fairness) No violation of Art. 6 § 1 (access to case file)	Excessive length of proceedings (more than five years and five months) Lack of public hearing At the time the applicant asked for a second time to inspect the case-file, after the elapse of a considerable period of time, the Constitutional Court was about to decide on the applicant's case; any further consultation of the file would not have caused any reason to believe that further submissions would be accepted by the Constitutional	Link

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

				Court; in order to comply with the applicant's request, the Constitutional Court decided the case rather than adjourning it, respecting the requirement of equality of arms	
France	14 Oct. 2010	Veriter (no. 31508/07) Imp. 2	No violation of Art. 6 § 1	Reasonable length of proceedings	Link
Italy	12 Oct. 2010	Serino (No. 3) (no. 21978/02) Imp. 3	Violation of Art. 1 of Prot. 1	Lack of adequate compensation following expropriation	Link
Moldova	12 Oct. 2010	Olaru (no. 476/07) Imp. 3	Just satisfaction	Judgment on satisfaction following the judgment of 28 October 2009 in which the Court held that there had been a violation of Art. 6 § 1 and Art. 1 of Prot. 1 on account of the non-enforcement of a final domestic judgment ordering the municipal authorities to provide the applicant with social housing	Link
Moldova	19 Oct. 2010	Baroul Partner-A (no. 39815/07) Imp. 3	Just satisfaction	Judgment on satisfaction following the judgment of 16 October 2009, in which the Court held that there had been a violation of Art. 6 § 1 and Art. 1 of Prot. 1 as a result of the domestic courts' annulment of the privatisation of a quarry in which the applicant company was a major shareholder	Link
Russia	14 Oct. 2010	Andrushko (no. 4260/04) Imp. 3	Violation of Art. 10	Domestic courts' failed to bring "sufficient" reasons justifying the interference at issue and overstepped the narrow margin of appreciation afforded to them for placing restrictions on debates of public interest; the interference with the applicant's right to freedom of expression was disproportionate to the aim pursued and not "necessary in a democratic society"	Link
Russia	14 Oct. 2010	Volchkov (no. 45196/04) Imp. 3	Violation of Art. 3 (prohibition of inhuman or degrading treatment) Violation of Art. 13	Conditions of detention Lack of an effective remedy	Link
Russia	21 Oct. 2010	Beloborodov (no. 11342/05) Imp. 3	Violations of Art. 3 (substantive and procedural)	Ill-treatment by police officers and lack of effective investigation	Link
Russia	21 Oct. 2010	Maryin (no. 1719/04) Imp. 2	No violation of Art. 3	The use of force by remand prison officers was not excessive; effective investigation	Link
Russia	21 Oct. 2010	Petr Korolev (no. 38112/04) Imp. 2	No violation of Art. 6 § 1	Reasonable length of criminal proceedings due to the complexity of the case and the significant delays attributable to the applicant	Link
Switzerland	14 Oct. 2010	Pedro Ramos (no. 10111/06) Imp. 2	No violation of Art. 6 § 1	No interference with the applicant's right of access to a court at the federal level, as he benefitted from free legal assistance at the cantonal level	Link
the Czech Republic	12 Oct. 2010	Adamíček (no. 35836/05) Imp. 2	Violation of Art. 6 § 1 (fairness)	Infringement of the applicant's right to a fair hearing on account of the Constitutional Court's excessively formalistic interpretation of the law	Link
the Czech Republic	21 Oct. 2010	Benet Czech, SpoL. S R.O. (no. 31555/05) Imp.	No violation of Art. 1 of Prot. 1	In view of the complexity and extent of the investigation the Court considered that the length of the investigation and the seizure of the applicant company's assets was	Link

				reasonable	
"the former Yugoslav Republic of Macedonia"	21 Oct. 2010	Ivanov and Dimitrov v. (no.46881/06) Imp. 3	(First applicant) Violation of Art. 6 § 1 (length)	Excessive length of proceedings (over five years and a month)	Link
Turkey	12 Oct. 2010	Ayan (no. 24397/03) Imp. 2	No violation of Art. 3	Lack of sufficient evidence to conclude that the applicant had been tortured in police custody	Link
Turkey	12 Oct. 2010	Başhan (no. 15685/07) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of criminal proceedings (six years and seven months)	Link
Turkey	12 Oct. 2010	Liman-İş Sendikası (nos. 29608/05, 36239/05 and 36247/05) Imp. 3	Violation of Art. 6 § 1 (fairness)	Non-enforcement of final judgments in the applicant company's favour	Link
Turkey	19 Oct. 2010	Kurkaev (no. 10424/05) Imp. 3	Violation of Art. 5 §§ 1 and 4 Violation of Art. 3	Unlawful detention with a view to deportation and lack of an effective remedy to challenge the lawfulness of that detention Poor conditions of detention at the Foreigners' Department of the Istanbul Security Headquarters (See the CPT Report to the Turkish Government on the visit to Turkey carried out from 2 to 14 September 2001 (concerning the CPT's visit to the Foreigners' Department of the Istanbul Security Headquarters) and the CPT Report to the Turkish Government on the visit to Turkey carried out from 7 to 14 December 2005)	Link
Turkey	19 Oct. 2010	Uğur and Others v. (nos 1968/07, 3608/07 etc. Imp. 3	(12 applicants) Violation of Art. 5 §§ 3 and 4 (All applicants) Violation of Art. 6 § 1 (length) (All applicants) Violation of Art. 13 in conjunction with Art. 6 § 1	Excessive length of pre-trial detention (from over six years to over thirteen years for some applicants) and lack of an effective remedy to challenge the lawfulness of that detention Excessive length of proceedings (more than sixteen years) Lack of an effective remedy	Link
Ukraine	14 Oct. 2010	Khayredinov (no. 38717/04) Imp. 2	Violation of Art. 5 §§ 1 and 3	Arbitrary and unlawful detention	Link
Ukraine	14 Oct. 2010	Naydyon (no. 16474/03) Imp. 2	Failure to comply with Art. 34	Domestic authorities' failure to comply with their obligations under Article 34 with respect of the refusal to provide the applicant with copies of documents for his application to the Court	Link
Ukraine	14 Oct. 2010	Shchokin v. (nos. 23759/03 and 37943/06) Imp. 2	Violation of Art. 1 of Prot. 1	Unlawful interference with the applicant's property rights on account of domestic authorities' less favourable interpretation of the domestic law which resulted in the increase in the applicant's income tax liability	Link
Ukraine	21 Oct. 2010	Bilyy (no. 14475/03) Imp. 3	Violations of Art. 3 (substantive and procedural) Two violations of Art. 5 § 1 Violation of Art. 5 § 3	Ill-treatment during detention in the police station and the Mykolaiv Temporary Detention Facility; lack of an effective investigation Unlawfulness of two periods of detention Excessive length of detention on	Link

			Violation of Art. 6 § 1 (length)	remand (two years and four months) Excessive length of proceedings (five years and three months)	
Ukraine	21 Oct. 2010	Diya 97 (no. 19164/04) Imp. 2	Violation of Art. 6 § 1 (fairness)	Supreme Court's consideration of a cassation appeal by a person who was not a party in the proceedings was in breach of the principle of legal certainty and the applicant company's right to a fair trial	Link
Ukraine	21 Oct. 2010	Kornev and Karpenko (no. 17444/04) Imp. 3	(First applicant) Violation of Art. 5 § 3 (First applicant) Violation of Art. 6 § 3 (d) (Second applicant) Violation of Art. 6 § 1 together with Art. 6 § 3 (b)	Failure to bring the applicant promptly before a judge Hindrance to the applicant's right to question the main witness against him Lack of sufficient time and facilities afforded to the applicant to prepare her defence	Link
Ukraine	21 Oct. 2010	Zhuk (no. 45783/05) Imp. 2	Violation of Art. 6 § 1 (fairness)	The Supreme Court had examined the applicant's appeal on points of law in his absence, in breach of the principle of equality of arms	Link

4. Repetitive cases

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

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

State	Date	Case Title	Conclusion	Key words
Azerbaijan	14 Oct. 2010	Safarova (no. 35507/07) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Non-enforcement of a final judgment in the applicant's favour
Bulgaria	14 Oct. 2010	Doron (no. 39034/04) link Georgiev (no. 27240/04) link	Violation of Art. 6 § 1 (length) – both cases Violation of Art. 13 in conjunction with Art. 6 § 1 (length) – both cases	Excessive length of criminal proceedings Lack of an effective remedy
Italy	19 Oct. 2010	De Angelis and Others (no. 68852/01) link Emanuele Calandra and Others (no. 71310/01) link Ippoliti (no. 162/04) link Izzo (no. 20935/03) link Janes Carratù (no. 68585/01) link Sciarrotta and Others (no. 14793/02) link Scozzari and Others	Just satisfaction	Judgements on satisfaction following judgements of respectively 21 March 2006, 26 January 2007, 16 February 2007, 2 June 2006, 3 November 2006, 12 April 2006 and 15 March 2006, in which the Court concluded that there had been a violation of Art. 1 of Prot. 1, on account of the loss of possession of the land at issue that amounted to expropriation, in breach of the applicants' right to peaceful enjoyment of their properties

		(no. 67790/01) link		
Poland	12 Oct. 2010	Jasari (no. 17888/07) link Polański (no. 42146/07) link	Violations of Art. 5 § 3	Excessive length of pre-trial detention (more than two years for both cases)
Poland	19 Oct. 2010	Bereza (No. 2) (no. 42332/06) link	Violation of Art. 8	Censorship of the applicant's correspondence by remand centre authorities
Romania	12 Oct. 2010	Stoian (no. 12221/06) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1 No violation of Art. 6 § 1 (length)	Quashing of a final judgment in the applicant's favour by the High Court of Cassation Reasonable length of proceedings
Russia	21 Oct. 2010	Akhmatova (no. 22596/04) link	Violation of Art. 6 § 1 (length) Violation of Art. 6 § 1 (fairness)	Excessive length of proceedings (five years and five months) Unfairness of proceedings on account of the appeal court's failure to duly summon the applicant to the appeal hearing
Russia	21 Oct. 2010	Karasev (no. 35677/05) link Polomoshnkov (no. 33655/04) link	Violation of Art. 6 § 1 (length)	Excessive length of criminal proceedings (four years and eleven months for the first case and five years and nine months for the second case)
Russia	21 Oct. 2010	Koloskova (no. 53051/08) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Quashing of a final judgment in the applicant's favour
Russia	21 Oct. 2010	Zavedyeva and two other "Privileged pensioners" cases* (nos. 33201/08, № 49557/08 and № 51501/08) link	Idem.	Quashing of final judgments in the applicants' favour concerning the pensions of pensioners who used to work in hazardous industries
Russia	21 Oct. 2010	Lenchenkov and Others (nos. 16076/06, 42096/06, 44466/06 and 25182/07) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Quashing of final judgments in the applicant's favour by way of supervisory review
Turkey	12 Oct. 2010	Yılmaz and Zabun (nos. 16231/06 and 4890/08) link	Violation of Art. 6 § 1 (fairness)	Failure to communicate to the applicants the written opinion submitted to the Supreme Military Administrative Court by the Principal Public Prosecutor
Turkey	19 Oct. 2010	Cevahirli (no. 15067/04) link	Violation of Art. 6 § 1 (fairness)	Hindrance to the applicant's right to access classified documents and information submitted by the Ministry of Defence to the Supreme Military Administrative Court in proceedings with regard to his being banned from the army's social facilities

* *The second case included 539 applications; it is one of the largest series of cases in the Court's history*

5. 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
Austria	14 Oct. 2010	Eigenstiller (no. 42205/06)	Link
Germany	21 Oct. 2010	Ewald (no. 2693/07)	Link
Germany	21 Oct. 2010	Grumann (no. 43155/08)	Link
Germany	21 Oct. 2010	Niesen (no. 32513/08)	Link
Germany	21 Oct. 2010	Schliederer (no. 2651/07)	Link
Germany	21 Oct. 2010	Träxler (no. 32936/09)	Link
Greece	21 Oct. 2010	Alexakis (no. 23377/08)	Link
Italy	12 Oct. 2010	Massaro and Others (nos. 23744/03, 23754/03 etc.)	Link
Italy	12 Oct. 2010	Piscitelli and Others (nos. 20193/03, 20372/03 etc.)	Link
Italy	19 Oct. 2010	Delfa Montaggi Industriali S.R.L. and Nava S.N.C. (no. 19875/03)	Link
Italy	19 Oct. 2010	Frosio (no. 16777/03)	Link
Italy	19 Oct. 2010	Giobbi and Others (nos. 26358/03, 26360/03 etc.)	Link
Italy	19 Oct. 2010	Iannelli and Others (nos. 29413/03, 29696/03 etc.)	Link
Italy	19 Oct. 2010	Silveri (No. 2) (no. 36624/02)	Link
Liechtenstein	21 Oct. 2010	Schadler and Others (no. 32763/08)	Link
Poland	12 Oct. 2010	Florczyk and Others (no. 30030/06)	Link
Poland	12 Oct. 2010	Mikolaj Piotrowski (no. 15910/08)	Link
Poland	12 Oct. 2010	Uzarowicz (no. 24523/08)	Link
Russia	21 Oct. 2010	Dzhigarkhanov (no. 38321/03)	Link
Russia	21 Oct. 2010	Sevostyanova (no.4665/04)	Link
Slovakia	19 Oct. 2010	Baczova (no. 18926/07)	Link
Slovakia	19 Oct. 2010	Berecova (no. 31651/06)	Link
Slovakia	19 Oct. 2010	Wolff (no. 42356/05)	Link
Slovenia	19 Oct. 2010	Ribič (no. 20965/03)	Link
Turkey	12 Oct. 2010	Babadağ (no. 39616/06)	Link
Turkey	12 Oct. 2010	Barlas Törün (no. 18535/05)	Link
Turkey	12 Oct. 2010	Erseven (no. 23221/07)	Link
Turkey	12 Oct. 2010	Kamer Dündar (no. 25759/07)	Link
Turkey	12 Oct. 2010	Mustafa Güngör (no. 40853/05)	Link
Turkey	12 Oct. 2010	Naim Gürbüz (no. 10818/06)	Link
Turkey	12 Oct. 2010	Özkoku (no. 38668/07)	Link
Turkey	12 Oct. 2010	Selma Aksoy (no. 26211/06)	Link
Turkey	12 Oct. 2010	Teknotes Mühendislik İnşaat Taahhüt Tic. Ve San. A. Ş. (no. 5287/06)	Link
Ukraine	21 Oct. 2010	Oleksandr Palamarchuk (No. 2) (no. 17156/05)	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 4 to 17 October 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.

- ***Decisions of relevance for the NHRSs***

Łomiński v. Poland (no 33502/09) and Łatak v. Poland (no 52070/08) – 12 Oct. 2010 – Alleged violation of Art. 3 (overcrowding and lack of adequate living conditions of the applicants' detention)

The present cases, like 271 other similar applications against Poland currently pending before the Court at various stages of the procedure, originated in the same widespread problem, arising out of the malfunctioning of the administration of the Polish prison system and a deficient regulatory framework. **In *Orchowski v. Poland* and *Norbert Sikorski v. Poland* pilot judgments this situation was found by the Court to have affected, and to be capable of affecting in the future, an unidentified, but potentially considerable number of persons in detention on remand or serving prison sentences**. The Court further found that, for many years, namely from 2000 until at least mid-2008, the overcrowding in Polish prisons and remand centres had revealed a structural problem consisting of "a practice that [was] incompatible with the Convention".

In consequence of the above conclusions under Article 46 of the Convention in respect of the nature of the violation of Article 3 found in the pilot case and the general measures to be taken by the Polish State in order to solve the systemic problem identified by the Court, including redress for past violations and in accordance with the pilot-judgment procedure as applied by the Court, the ruling in the present case will necessarily extend beyond the sole interest of the individual applicant concerned and will be valid for all subsequent similar cases. **In practical terms, the Court considers that essentially in all cases in which in June 2008 the alleged violation was either remedied by placing the applicant in Convention compliant conditions or ended *ipso facto* because the applicant was released, the applicants concerned should bring a civil action for compensation under Article 24 taken in conjunction with Article 448 of the Civil Code. Having regard to the features of New Procedure under the Code of Execution of Criminal Sentences and without prejudice to its examination of that procedure in the particular circumstances of subsequent applications before it, in future cases where applicants allege a violation of Article 3 due to overcrowding, it cannot be excluded that the Court may require of them to make use of the new complaints system introduced by the Code of Execution of Criminal Sentences.**

The Court declared the application inadmissible for non-exhaustion of domestic remedies: the applicants should, before having their Convention claim examined by this Court, be required to seek redress at domestic level and bring a civil action for the infringement of their personal rights and compensation under Article 24 taken in conjunction with Article 448 of the Civil Code.

- ***Other decisions***

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Estonia	05 Oct. 2010	Nõgisto (no 40163/08) link	Alleged violations of Articles 3 and 8 (restrictions imposed on the applicant's communications with his family during his pre-trial detention) and Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
France	12 Oct. 2010	Société Cofinfo (no 23516/08) link	Alleged violation of Art. 6 § 1 (non-enforcement of a judgment in the applicant company's favour and excessive length of proceedings) and Art. 1 of Prot. 1 (hindrance on the applicant company's right to peaceful enjoyment of possessions on account of the inability to use or rent its building)	Partly inadmissible as manifestly ill-founded (the domestic authorities' refusal to enforce the judgment in the applicant company's favour did not infringe its right of access to a court and no separate issue arose concerning claims under Art. 1 of Prot. 1), partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings)
France	12 Oct. 2010	Labbé (no 36966/08) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings, lack of sufficient reasoning of the domestic court's decision), Art. 1 of Prot. 1 (arbitrary decision of judges to reduce the applicant's honoraries)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Germany	05 Oct.	Köpke (no 420/07)	Alleged violation of Art. 8 (video surveillance of the applicant by her	Inadmissible as manifestly ill-founded (no evidence to conclude

	2010	link	employer and the recording and uncontrolled processing and use of the personal data obtained thereby), Art. 6 (domestic courts' refusal to hear any of the numerous witnesses the applicant had named), Art. 6 in conjunction with Art. 14 (the refusal of the Federal Labour Court to grant the applicant legal aid)	that the domestic authorities had failed to strike a fair balance, within their margin of appreciation, between the applicant's right to respect for her private life under Article 8 and both her employer's interest in the protection of its property rights and the public interest in the proper administration of justice concerning claims under Article 8 and no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Portugal	05 Oct. 2010	Alexandre (no 33197/09) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of three sets of proceedings, non-enforcement of a judgment ordering to strike the applicant's conviction from his police record), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the length of civil proceedings and the non-enforcement of a judgment ordering to strike the applicant's conviction from his police record), partly inadmissible for non-exhaustion of domestic remedies (concerning the length of criminal proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Portugal	05 Oct. 2010	Ferreira Da Silva E Brito and Others (no 46273/09) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings concerning the applicants' unfair dismissals), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the length of proceedings and the lack of an effective remedy), partly inadmissible for non-respect of the six-month requirement (concerning M Fernando José Bexiga Esperança, Mrs Maria Manuel Serras Pires Cardeano and Mrs Maria José Soares Andrea de Oliveira Tanqueiro Cornemillot), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Russia	07 Oct. 2010	Uniya OOO and Belcourt Trading Company (no 4437/03; 13290/03) link	Alleged violation of Art. 6 § 1 (lack of an effective judicial review of the lawfulness of the seizure and destruction of their properties: alcohol), Art. 1 of Prot. 1 (the applicants had been deprived of the two consignments of alcohol)	Admissible
the United Kingdom	05 Oct. 2010	H.S. and Others (no 16477/09) link	Alleged violation of Art. 8 (continued refusal to consent to the transfer of the first applicant to serve the remainder of his sentence in the Netherlands, where his family lives), Art. 14 (discrimination on grounds of nationality), Art. 6 §§ 1 and 2 (the reasonable time requirement and the applicant's right to be presumed innocent were infringed on account of the above mentioned refusal)	Struck out of the list (the matter has been resolved at the domestic level)
the United Kingdom	05 Oct. 2010	B.P. (no 29619/08) link	Alleged violation of Art. 8 (the applicant had been deprived of contact with his daughter for five years following unfounded allegations of sexual abuse by his former partner), Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
the United Kingdom	05 Oct. 2010	Wellington (no 60682/08) link	Alleged violation of Art. 3 (risk of being subjected to inhuman and degrading treatment in the form of a sentence of life imprisonment	Struck out of the list (the applicant no longer wished to pursue his application)

			without parole if extradited to the United States)	
Turkey	05 Oct. 2010	Ioannou Iacovou and Others (no 24506/08; 24730/08; 60758/08) link	The applicants are relatives of Mr Ioannis Iacovou Stylianou, a Greek Cypriot who went missing in July 1974 following the invasion of northern Cyprus by Turkish armed forces Alleged violation of Articles, 2, 3, 5, 8 and 13 (disappearance and death of the applicants' relative and the lack of effective investigation in that connexion), Art. 8 (lack of access to the applicants' family home in northern Cyprus)	Partly adjourned (concerning the lack of investigation following the discovery of the remains of the applicants' relative and the treatment which they suffer as a result), partly incompatible *ratione temporis* (concerning the event of disappearance and alleged deprivation of liberty in 1974), partly inadmissible for non-respect of the six-month requirement (concerning the lack of effective investigation into the disappearance of their relative in 1974), partly inadmissible for non-exhaustion of domestic remedies (concerning the applicants' property rights), partly inadmissible as manifestly ill-founded (concerning claims under Art. 8)
Turkey	05 Oct. 2010	Fieros and Others (no 53432/99; 54086/00 etc.) link	Alleged violation of Art. 1 of Prot. 1 (the applicants complained that they had been denied access to and enjoyment of their property in the occupied area of northern Cyprus), Art. 8 (the applicants' inability to return to their homes), Art. 14	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1), and no separate issue arises concerning the applicants' claims about inability to return to homes which are owned by others
Turkey	05 Oct. 2010	Marios Eleftheriades (no 3882/02; 3883/02 etc.) link	Idem.	Idem.
Turkey	05 Oct. 2010	Erol (no 24547/06) link	Alleged violation of Articles 2, 6 and 17 (the applicant's relative's death and lack of an effective investigation in that respect)	Inadmissible as manifestly ill-founded (the Court considered that the investigation into the applicants' relative's death was effective)
Turkey	05 Oct. 2010	Akar and Others (no 33722/05) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings), Art. 1 of Prot. 1 (deprivation of property), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the length of proceedings and the lack of an effective remedy), partly inadmissible for non-exhaustion of domestic remedies (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 18 October 2010 : link
- on 25 October 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 18 October 2010 on the Court's Website and selected by the NHRS Unit

The batch of 18 October 2010 concerns the following States (some cases are however not selected in the table below): Armenia, Bulgaria, Croatia, Finland, France, Italy, Latvia, Romania, Russia, Slovakia, Slovenia, the Czech Republic, "the former Yugoslav Republic of Macedonia", the Netherlands, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
Romania	30 Sept. 2010	Borțea no 364/05	Alleged violation of Art. 6 – Unfairness of proceedings – Alleged violation of Art. 10 – Infringement of the applicant's right to freedom of expression on account of his conviction for defamation for criticizing an employee of the Mayor's office in a newspaper
Romania	30 Sept. 2010	Copil no 27194/03	Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 6 § 3 (d) – Hindrance to the applicant's right to have the evidence proposed in his defence examined by the domestic courts – Alleged violation of Art. 8 – Authorities' refusal to grant the applicant leave to attend his mother's funeral
"the former Yugoslav Republic of Macedonia"	28 Sept. 2010	El-Masri no 39630/09	Alleged violation of Art. 3 (substantive and procedural) – (i) Was the applicant subjected to treatment contrary to Article 3 of the Convention, by agents of the respondent State while staying in the "Skopski Merak" hotel? – Was the applicant handed over to a CIA "rendition team" at Skopje airport by agents of the respondent State? If so, was he subjected on that occasion and in Skopje airport by these U.S. agents to treatment contrary to Article 3 of the Convention? Can the respondent State be held responsible for such treatment? – Given the available information at the relevant time, was the respondent State aware that the applicant faced a real risk of being subjected to torture or inhuman or degrading treatment if transferred to the CIA-run facility known as "Salt Pit", in Afghanistan? If so, can the respondent State be held responsible? – (ii) Lack of an effective investigation in respect of alleged violations – Alleged violation of Art. 5 – Unlawful and unjustified detention in the "Skopski Merak" hotel and for disappearance for an uninterrupted period of 149 days – Alleged violation of Art. 8 – Unjustified interference with the applicant's right to respect for family life – Alleged violation of Art. 13 in conjunction with Articles 3 and 5 – Lack of an effective remedy
the Netherlands	30 Sept. 2010	Dara no 13681/08	Alleged violation of Articles 2 and/or 3 – Risk of being subjected to torture and imprisonment resulting in the deprivation of the applicant's life if expelled to Iran – Alleged violation of Art. 13 in conjunction with Articles 2 and 3 – Lack of an effective remedy
Ukraine	27 Sept. 2010	Arskaya no 45076/05	Alleged violation of Art. 2 – The State's responsibility to provide appropriate health care regulations for the protection of the applicant's son's life – Lack of an effective investigation in that regard

Communicated cases published on 25 October 2010 on the Court's Website and selected by the NHRS Unit

The batch of 25 October 2010 concerns the following States (some cases are however not selected in the table below): Andorra, Bulgaria, Croatia, Italy, Montenegro, Portugal, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties

the United Kingdom	07 Oct. 2010	Khan no 6222/10	Alleged violation of Art. 8 – The applicant's deportation to Pakistan following several criminal convictions – The Government is specifically requested to comment on the application in the light of *A.W. Khan v. the United Kingdom*, no. 47486/06, 12 January 2010, which involved the younger brother of the current applicant.
Turkey	08 Oct. 2010	Ata and Others no 30798/10	Alleged violation of Art. 2 (positive obligation) – State's failure to take adequate measures to protect the applicants' close relatives' life – Alleged violation of Art. 13 – Lack of an effective remedy
Ukraine	06 Oct. 2010	Dzhulay no 24439/06	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment by police officers – (ii) Lack of an effective investigation – Alleged violation of Art. 6 § 3 d) – Lack of legal assistance while in detention – Alleged violation of Art. 6 § 1 – Unfairness of proceedings

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

Relinquishment in favour of the Grand Chamber (22.10.2010)

The Chamber to which the case of *Nada v. Switzerland* had been allocated has relinquished jurisdiction in favour of the Grand Chamber. The case concerns measures taken under United Nations Security Council Resolutions against Al-Qaeda. Press Release

Meeting with NGOs and applicants' representatives (22.10.2010)

On 21 October 2010, NGOs and applicants' representatives have been invited to a meeting at the Court. President Costa gave the opening address at this meeting.Its purpose is mainly to discuss procedural and technical issues which arise for organisations representing applicants before the Court.

Visit to Romania (22.10.2010)

On 22 October 2010, President Costa visited Bucarest. He was accompanied by Corneliu Bîrsan, the judge elected in respect of Romania and Santiago Quesada, Section Registrar. President Costa was be received by Traian Băsescu, President of Romania. He met Mircea Geoană, President of the Senate, Roberta Alma Anastase, President of the Chamber of Deputies and was paid a visit to the Constitutional Court. President Costa was also be received by Emil Boc, Prime Minister and met Cătălin Marian Predoiu, Minister of Justice.

Ceremony for the 60th anniversary (20.10.2010)

On 19 October 2010, President Costa took part in the ceremony to commemorate the 60th anniversary of the European Convention on Human Rights, in the presence of Ban Ki-moon, Secretary General of the United Nations (more)

Ceremony to mark the 60th anniversary at the Parliamentary Assembly (08.10.2010)

On 6 October 2010 the Parliamentary Assembly held a ceremony to mark the 60th anniversary of the European Convention on Human Rights. The President of the Court and the President of the Parliamentary Assembly of the Council of Europe paid tribute to this key text which formed the basis for the establishment of the Court. Speech of President Costa (in French only)

Part II: The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 2 to 3 December 2010 (the 1100th meeting of the Ministers' deputies).

B. General and consolidated information

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

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

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

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

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

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

A. European Social Charter (ESC)

The International Federation for Human Rights (FIDH) lodges a complaint against Belgium (12.10.2010)

The International Federation for Human Rights has lodged a complaint against Belgium (no. 62/2010) alleging the violation of rights related to housing for Travellers under the ESC. The complaint which was registered on 30 September 2010, concerns the insufficiency of stopping places, problems stemming from the non recognition of caravans as a home, lack of respect of the required conditions when carrying out evictions, lack of a global and coordinated policy to combat poverty and social exclusion of Travellers, among other issues. Complaint No. 62/2010; Further information on collective complaints

Belgium amends its legislation regarding nursing mothers to comply with the Revised Social Charter (20.10.2010)

The European Committee of Social Rights noted in its Conclusions XVII-2 and 2007 that Belgian legislation with regard to breastfeeding breaks was not in conformity with Article 8 § 3 (Right of employed women to protection : Time off for nursing mothers) of the ESC and the European Social Charter Revised. Under article 8 § 3 the Committee considers that breastfeeding breaks should be granted until a child reaches the age of 9 months, whereas in Belgium such breaks were granted until the child reached 7 months. An amendment to Collective Labour Agreement No. 80 has been made with a view to bringing the Belgian situation into conformity with the Revised Charter. Belgian factsheet

The decision on the merits in the case COHRE v. Italy (Complaint No. 58/2009) has become public (22.10.2010)

Following the adoption of Resolution Res/CM/ChS(2010)8 by the Committee of Ministers at its 1096th meeting, the decision on the merits adopted by the European Committee of Social Rights on 25 June 2010 in the case *Centre for Housing Rights and Evictions (COHRE) v. Italy* has become public. The Committee found Italy to be in violation of Article E (non-discrimination) in conjunction with Articles 16 (Right of the family to social, legal and economic protection), 19 §§ 1, 4 c. and 8 (Right of migrant workers and their families to protection and assistance), 30 (Right to be protected against poverty and social exclusion) and 31 (Right to housing) of the Revised Charter. Summary of Complaint No. 58/2009; Decision on the Meritshttp://www.coe.int/Complaints/CC58Merits_en.pdf

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

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

The next session of the European Committee of Social Rights will be held from 29 November to 3 December 2010.

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

–*

C. European Commission against Racism and Intolerance (ECRI)

–*

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

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

Cyprus: publication of the third cycle opinion (12.10.2010)

The 3rd Opinion of the Council of Europe Advisory Committee on the FCNM on Cyprus has been made public at the same time as the government comments. The Advisory Committee adopted this Opinion in March 2010.

Advisory Committee: adoption of three opinions and election of the new bureau (15.10.2010)

The Advisory Committee on the FCNM adopted three country-specific opinions under the third cycle of monitoring the implementation of this convention in States Parties. The Opinions on **Armenia** and **Finland** were adopted on 14 October, and the Opinion on **Italy** was adopted on 15 October. They are restricted for the time-being. These three opinions will now be submitted to the Committee of Ministers, which is to adopt conclusions and recommendations.

The new **bureau** of the Advisory Committee is as follows: Mr Rainer Hofmann, President Ms Lidija Basta-Fleiner, 1st Vice-President, Ms Barbara Wilson, 2nd Vice-President.

E. Group of States against Corruption (GRECO)

*

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

Adoption of the Statute of MONEYVAL by the Committee of Ministers (13.10.2010)

At their meeting of 13 October 2010, the Committee of Ministers adopted the Resolution CM/Res(2010)12 on the Statute of MONEYVAL. This new statute will elevate MONEYVAL as from 1 January 2011 to an independent monitoring mechanism within the Council of Europe answerable directly to the Committee of Ministers. CM/Res(2010)12

Publication of a study on money laundering through private pension funds and the insurance sector (15.10.2010)

This MONEYVAL study provides an outline of the insurance industry in MONEYVAL member States, examines specific vulnerabilities identified and includes a number of typologies and case studies regarding life insurance and pensions, insurance companies and reinsurance. The report highlights the fact that non-life insurance is considered to be vulnerable as well as life insurance, that independent intermediaries marketing insurance products may present a weakness in AML/CFT controls and also notes that the development of the internet may give rise to new areas of vulnerability. The study includes also an updated list of red flags and indicators. Study

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

1st Evaluation Round: GRETA carries out its first country visit to Cyprus (11-14.10.2010)

A delegation of GRETA carried out a country visit to Cyprus from 11 to 14 October 2010, in order to prepare its first monitoring report on the fight against human trafficking in Cyprus. This was the first country visit to be carried out in the context of the first round of evaluation of implementation of the *Council of Europe Convention on Action against Trafficking in Human Beings.* This round was launched in February 2010 when GRETA addressed a questionnaire to the first 10 Parties to the Convention: Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, Moldova, Romania and the Slovak Republic. During the visit, the delegation held meetings in Nicosia with representatives of relevant ministries and other public bodies, with members of non-governmental organisations active in combating trafficking in human beings and human rights protection, as well as with other members of civil society dealing with issues of concern to GRETA. On the basis of the information gathered during the visit and Cyprus' reply to the questionnaire, GRETA will prepare a draft report containing its analysis of the implementation of the Convention by Cyprus, as well as suggestions concerning the way in which Cyprus may deal with the problems which have been identified. This draft report shall be transmitted to the Cypriot Government for comments before GRETA prepares its final report, which will be made public along with any final comments by the Government.

* 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

12 October 2010

Georgia signed the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127). **Serbia** signed the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (ETS No. 082), and the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116).

15 October 2010

Slovenia signed the Additional Protocol to the Convention on the Transfer of Sentenced Persons (ETS No. 167).

18 October 2010

Norway signed and approved the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159), and Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation (ETS No. 169).

22 October 2010

Latvia ratified the European Convention for the Protection of Pet Animals (ETS No. 125).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/Res(2010)11E / 13 October 2010 Resolution confirming the establishment of the Enlarged Partial Agreement on Sport (EPAS)

CM/Res(2010)12E / 13 October 2010 Resolution on the Statute of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)

CM/Res(2010)13E / 21 October 2010 Resolution concerning the financial statements of the European Pharmacopoeia for the year ended 31 December 2009

CM/Res(2010)14E / 21 October 2010 Resolution concerning the financial statements of the European Pharmacopoeia for the year ended 31 December 2009

CM/Res(2010)15E / 21 October 2010 Resolution concerning the financial statements of the Partial Agreement on the Council of Europe Development Bank for the year ended 31 December 2009

CM/Res(2010)16E / 21 October 2010 Resolution concerning the financial statements of the Partial Agreement on the Co-operation Group to combat drug abuse and illicit trafficking in drugs (Pompidou Group) for the year ended 31 December 2009

CM/Res(2010)17E / 21 October 2010 Resolution concerning the financial statements of the Partial Agreement on the Co-operation Group for the prevention of, protection against, and organisation of relief in major natural and technological disasters for the year ended 31 December 2009

CM/Res(2010)18E / 21 October 2010 Resolution concerning the financial statements of the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) for the year ended 31 December 2009

CM/Res(2010)19E / 21 October 2010 Resolution concerning the financial statements of the Partial Agreement on the Youth Card for the year ended 31 December 2009

CM/Res(2010)20E / 21 October 2010 Resolution concerning the financial statements of the Enlarged Partial Agreement establishing the European Centre for Modern Languages (Graz) for the year ended 31 December 2009

CM/Res(2010)21E / 21 October 2010 Resolution concerning the financial statements of the Enlarged Partial Agreement on the “Group of States against Corruption – GRECO” for the year ended 31 December 2009

CM/Res(2010)22E / 21 October 2010 Resolution concerning the financial statements of the Enlarged Partial Agreement on Sport (EPAS) for the year ended 31 December 2009

CM/Res(2010)23E / 21 October 2010 Resolution concerning the financial statements and the budgetary management accounts of the Partial Agreement establishing the European Centre for Global Interdependence and Solidarity (North-South Centre) for the year ended 31 December 2009

CM/Res(2010)24E / 21 October 2010 Resolution concerning the financial statements and the budgetary management accounts of the Partial Agreement on the European Support Fund for the co-production and distribution of creative cinematographic and audiovisual works "Eurimages" for the year ended 31 December 2009

CM/ResChS(2010)8E / 21 October 2010 Resolution - Collective complaint No. 58/2009 by the Centre on Housing Rights and Evictions (COHRE) against Italy

C. Other news of the Committee of Ministers

Meeting of the Ministers' Deputies (14.10.2010)

At their meeting of 13 October, the Ministers' Deputies of the Council of Europe pursued the preparation of the high level meeting on Roma to take place on 20 October in Strasbourg.

Ohrid: Conference on the fight against corruption (15.10.2010)

The Chairmanship of the Committee of Ministers organised a conference "Fight against corruption – integrative feedback of domestic and international activities" in Ohrid on 15-16 October. In the course of the Conference, Ministers of Justice and their representatives from six countries of South Eastern Europe were expected to adopt a Joint Statement aiming at reinforcing regional co-operation in the fight against corruption.

60th anniversary of European Convention on Human Rights (19.10.2010)

The Council of Europe held a ceremony to commemorate the 60th anniversary of the European Convention on Human Rights, which was opened for signature by member States on 4 November 1950 in Rome. The Convention today upholds the human rights of 800 million Europeans in 47 states. Speech by Mr Gjorgje Ivanov on behalf of the Chairmanship of the Committee of Ministers

Council of Europe meeting for Roma, 20 October 2010/ European governments act to help Roma (20.10.2010)

Representatives of the 47 Council of Europe countries, the EU and the Roma community gathering in Strasbourg on 20 October unanimously condemned widespread discrimination against Roma and their social and economic marginalisation. Secretary General Thorbjorn Jagland said 'the time for action has come. Today we have made a fresh start to actually helping the Roma population of Europe. Roma are fellow Europeans'. Member States agreed to a joint effort and pan-European response to meet the needs of the estimated 12 million Roma living in Europe. The "Strasbourg Declaration" includes guiding principles and priorities: a) Non-discrimination, citizenship, women's and childrens rights; b) Social inclusion including education, housing and healthcare; c) Empowerment and better access to justice. "Strasbourg Declaration"; Meeting for Roma - video; Special file of the High-Level Meeting; Video of ; the press conference of Thorbjørn Jagland and Viviane Reding; Video of the concluding press conference; Video of the press conference of Pierre Lellouche; Photo gallery

Part V: The parliamentary work

.

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

.*

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

➢ *Countries*

Georgia-Russia war: 'Confrontation must give way to dialogue' says Dick Marty (12.10.2010)

The Chair of PACE's Monitoring Committee Dick Marty (Switzerland, ALDE) has proposed a full day of high-level hearings to break what he called the "deadlock" on dealing with the consequences of the war between Georgia and Russia. "Confrontation must give way to dialogue," said Mr Marty in a note made public this week outlining the plan. The hearings, to be held by January 2011 at the latest, could involve representatives of the Georgian and Russian governments, Ambassador Heidi Tagliavini – who wrote a report on the origins of the war which was recognised by both sides as impartial – and the EU and UN co-chairs of the Geneva talks, as well as the head of the EU monitoring mission in the region, Council of Europe leaders, representatives of the European Parliament and the ICRC. The hearings could help to reduce the "emotional impact" of the war, which continues to be an obstacle to discussion, Mr Marty pointed out, and clarify the current situation, including the situation on the ground. Armed conflict between two member states is "an exceptionally serious development" and its consequences were a priority for PACE and the Council of Europe as a whole, he said. Mr Marty was authorised to make contact with the authorities of both states to draw up a catalogue of practical questions for discussion and rapid settlement, as well as a roadmap to address the humanitarian situation, and the assessment of the situation with regard to the Assembly's three resolutions on the consequences of the war. Mr Marty's proposal

PACE co-rapporteurs call on Georgian Parliament not to hurry the adoption of constitutional amendments (12.10.2010)

The monitoring co-rapporteurs for Georgia of PACE, Kastriot Islami (Albania, SOC) and Michael Aastrup Jensen (Denmark, ALDE), have called on the Georgian Parliament not to adopt the amendments to the constitution before the Venice Commission – the Council of Europe's group of independent experts in constitutional law – has given its opinion on them, and only after its recommendations have been taken into account and addressed. "As we mentioned after our last visit, it is important to ensure that the constitutional amendments are adopted in an all-inclusive process based on consultation and consensus, and that Venice Commission recommendations are taken into account," the co-rapporteurs said. "Adopting these amendments before the final opinion of the Venice Commission has been issued will only give rise to unnecessary criticism that the constitution was changed in a hurry," they added.

PACE President reacts to attack on Chechen Parliament (19.10.2010)

"I am shocked and angered to learn of this morning's terrorist attack in Grozny," said Mevlüt Çavusoglu, the President of PACE on 19 October. "Those who carried it out must be utterly condemned: no cause justifies this extreme and deadly violence. This was all the more shocking because it targeted a parliament, the symbol of the people. I offer my sincere condolences and solidarity to the families of those who died while carrying out their duty to protect the deputies. This region has suffered enough. It is time to bring the violence to a close. The Parliamentary Assembly will continue to do everything in its power to achieve that end."

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

Statement by PACE pre-election delegation visiting Azerbaijan (21.10.2010)

A five-member, cross-party delegation from PACE visiting Azerbaijan ahead of the 7 November parliamentary elections has welcomed an overall calm atmosphere in the run-up to the elections. "This is a positive departure from the ways of the past where electoral campaigns were marred by violence and mutual recriminations," the delegation said. "Improvements in the work of the Central Election Commission, the voter education programme launched by it, and greater attention to the quality of the voters' lists, should be commended. In a welcome development and in contrast to some earlier elections, the Azerbaijani opposition is actively involved in the electoral race. It is making attempts at forging electoral blocs and trying to overcome competing individual agendas. Building electoral alliances is usually part and parcel of a democratic process. The delegation also welcomes the new possibilities created for non-governmental organisations to be involved in the electoral procedures. Yet, once again, the PACE delegation has not witnessed a competition of substantive political ideas, platforms or approaches. Furthermore, this is exacerbated by the lack of any public debate (including TV debates) that would help the electorate to make an educated choice on election day. The delegation was also concerned about allegations that the pre-electoral situation is characterised by administrative pressures and difficulties relating to candidate registration. Harassment of some journalists and bloggers, instances of which were brought to the attention of the delegation, is not conducive to a constructive dialogue within society. Corrective action is urgently needed. While the existing legislation does provide for universal suffrage in Azerbaijan, the very numerous Azerbaijanis residing abroad will only be able to vote in the parliamentary elections if they return to their constituencies in the country on voting day. This compromises the principle of universality of voting rights. Also, people with disabilities should have better possibilities to vote, for instance through the setting up of polling stations in hospitals.A comprehensive compendium of earlier PACE proposals to improve the electoral process in Azerbaijan can be found, inter alia, in PACE Resolution 1750 (2010) on the functioning of democratic institutions in Azerbaijan. Finally, the delegation calls on Baku to rectify the situation with entry visas for observers. If, contrary to official declarations, those cannot be issued upon arrival, this should be made known to would-be observers for them to avoid unpleasant surprises en route to Baku."

The delegation was in Baku from 18 to 21 October 2010 at the invitation of the Speaker of the Milli Majlis and will return, as part of a full-scale, 30-member PACE delegation, to observe actual voting. The delegation had meetings with the President of Azerbaijan Ilham Aliev, the Chairman of the Central Election Commission, the Chairman of the Constitutional Court, the Minister of the Interior, as well as with a representative cross-section of political parties and electoral blocs, civil society and the media. It also had discussions with the Head of the OSCE ODIHR Election Observation Mission and members of the diplomatic community.

- *Themes*

PACE President: inter-religious and intercultural dialogue 'one of the best ways' to combat extremism (13.10.2010)

"Intensifying inter-religious and intercultural dialogue is one of the best ways of combating xenophobia, racism, anti-semitism and islamophobia, which seem to be on the rise in many European societies," PACE President Mevlüt Çavusoglu has said, speaking at the start of a visit to Moscow from 13 to 14 October. He held meetings with religious dignitaries: Patriarch Cyril of Moscow and All-Russia, the Grand Mufti of Russia and Chair of Russia's Council of Muftis Sheik Ravil Gainutdin and the Chief Rabbi of Russia Berel Lazar. He expressed his appreciation at the good relations existing between the different religions in the Russian Federation, which he said were developing in a spirit of dialogue and mutual respect. Recalling that the promotion of intercultural and inter-religious dialogue was one of his priorities, the President announced that the Assembly was preparing a debate on this topic in April 2011 with the participation of the Prime Ministers of Turkey and Spain, as co-chairs of the Alliance of Civilisations, together with religious leaders from across Europe. "It is essential to increase mutual understanding and respect between different cultures and religions by emphasising the profound values that we have in common, mainly our respect for human beings and human dignity," he stressed. The PACE President invited the religious leaders to address the Parliamentary Assembly, if possible in 2011. He also recalled that during the Bureau's audience with Pope Benedict XVI at the Vatican in September 2010, he had invited the pontiff to Strasbourg to address the Assembly. During his meeting with the Patriarch, the President welcomed the positive contribution to inter-religious dialogue in Russia of the Inter-religious Council, which brings together representatives of the Orthodox, Muslim, Jewish and Buddhist religions, established under the patriarchy of Alexis II.

PACE President urges governments not to cut education budgets (14.10.2010)

“In times of crisis, many governments are tempted to cut education budgets. However, this is a false saving, one which will be paid for dearly in the future," said PACE President Mevlüt Çavusoglu speaking in Moscow at the opening of an international symposium on Education in Europe. "For this reason, the Assembly has called for education policies to be developed to face these challenges and invited the Secretary General of the Council of Europe to strengthen education in the organisation's work programme. Only recently, the Assembly reiterated that education should be used as the driving force for new social and economic structures in today’s world of rapid change, increasing globalisation and complex economic, societal and cultural relations,” he said.

He recalled that education, and particularly history teaching, can contribute to greater understanding, tolerance and confidence between individuals and between the peoples of Europe; it can help to develop notions of intercultural understanding and dialogue or it can become a force for division, violence and intolerance. “Education is a fundamental right under Article 2 of the first Protocol to the European Convention on Human Rights. It is a necessary requirement for the development of every individual and the backbone of any civilised human society. In 2010, 60 years later, those principles are as valid and important as they were at the time of the signature of the Human Rights Convention,” the President recalled. “The Parliamentary Assembly has always recognised the major role that education plays in modern societies. It has been dealing with education policies since its creation in 1949, when it called for a meeting of education ministers to produce a comparative study of teaching programmes in different countries in order to make the best features of each available to all. European integration has progressed enormously over the last 60 years, but it remains the sovereign power of national legislators in Europe to determine educational policies and laws, as confirmed by last year’s Lisbon Treaty on the European Union. The harmonising role of the Council of Europe is therefore of the utmost importance," he continued. One of the most important contributions to the work of the Assembly on the matter of education is the report on “Education for balanced development in school” by Anatoliy Korobeynikov, one of the moving forces behind the organisation of the conference, the President stressed. “Having substantially contributed to the work of the Assembly, Mr Korobeynikov is now in a position to bring back to his country the added value of the principles of the Council of Europe,” the President concluded. On the occasion of the opening of the International Symposium, Mr Çavusoglu met with the Chairman of Russia's Federation Council, Sergey Mironov. Speech by PACE President

Parliaments united against human trafficking (18.10.2010)

‘On the European Day against Trafficking in Human Beings, I would like to reiterate the firm commitment of the Committee for Equal Opportunities for Women and Men not to spare any effort to fight against this intolerable form of modern-day slavery’, said on 18 October José Mendes Bota, Chairperson of the Committee. ‘On our continent, the Council of Europe and the European Union should work hand in hand, avoid duplication and apply the highest standards in the prevention of trafficking, the prosecution of offenders and the protection of victims’. ‘Parliamentarians should be at the forefront of the combat against trafficking. They have a full range of instruments to do so: campaigning, setting up parliamentary groups, initiating legislation, encouraging their governments to sign up to the Council of Europe anti-Trafficking Convention and contributing to the monitoring and oversight of existing legal instruments. I find that the potential of parliaments in this area could be further explored, and I hope that the inter-parliamentary conference that we are organising in a few weeks will generate a new impetus and interest from the part of parliamentarians’. The PACE Committee for Equal Opportunities for Women and Men is organising an Interparliamentary Conference on “Parliaments united against human trafficking”, to be held in Paris on Friday 3 December 2010. Link to the website on trafficking in Human Beings

Lord Prescott: greater citizen participation needed to overcome ‘crisis’ in democracy (20.10.2010)

New forms of democracy – in which citizens can participate directly in decisions, for example – are needed to supplement traditional representative democracy if the current crisis in democracy is to be overcome, Lord Prescott (United Kingdom, SOC) has told the Forum for the Future of Democracy in Yerevan. Delivering a speech on behalf of PACE President Mevlüt Çavusoglu, Mr Prescott said there was a need for “sustained forms of interaction between people and the authorities”. Speech by Lord Prescott

Roma: Council of Europe should co-ordinate measures and help avoid duplication (20.10.2010)

Speaking at the High-level meeting on Roma in Strasbourg on 20 October, the PACE President declared that in the Assembly's view "there should be no shirking of responsibility: education, employment, social inclusion, health services and housing are almost entirely national responsibilities". The role of the Council of Europe was to facilitate co-ordination of national and international measures and initiatives, to ensure that duplication of effort was avoided and synergies were created whenever possible, he stressed. "The organisation should also support member States by providing them with concrete tools and examples of best practice, based on Council of Europe standards and experience, in order to develop and implement integrated national policies, tailored to the national, regional and local particularities," he concluded. The Strasbourg Declaration on Roma; Speech by Mr Çavusoglu

Environment protection and territorial planning should be part of the Council of Europe's 'core business' (20.10.2010)

"In the current process of reform in the Council of Europe, the protection of the environment and territorial planning should be regarded as part of the Council of Europe's 'core business'," said Valeriy Sudarenkov (Russian Federation, SOC), speaking at the ceremony marking the 10th anniversary of the Council of Europe Landscape Convention on 20 October in Florence. "We, parliamentarians, continuously appeal to our governments to sign, ratify and implement this convention, to invest in projects, to engage in cross-border co-operation and to exchange experience and best practice," recalled Mr Sudarenkov, who was PACE rapporteur on "conservation and use of the landscape potential in Europe" in 2006. "We also urge the Committee of Ministers to initiate drafting an Additional Protocol to the Convention on Human Rights, so that the right to a healthy and viable environment becomes part and parcel of fundamental human rights granted by the Convention," he concluded. Speech by Mr Sudarenkov

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

A. Country work

"Romania needs to put an end to anti-Gypsyism" says Commissioner Hammarberg (15.10.2010)

"Without resolute action to stamp out anti-Gypsyism, it will not be possible to help many Romanian Roma out of social exclusion and marginalisation." After a three-day visit to Romania focused on the human rights of Roma, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, finds that the country needs a set of comprehensive measures to tackle pervasive discrimination against Roma. With international attention focused on Roma and reflected domestically, Commissioner Hammarberg believes that Romania should not miss out on an opportunity to advance Roma inclusion. Photo gallery of the visit

Inhuman treatment of persons with disabilities in institutions (21.10.2010)

The prosecutor general in Bulgaria has initiated criminal investigations into 166 deaths and 30 more cases of abuse of children living in state homes for young people with mental disabilities. This was an important signal not only for the Bulgarian authorities but for several other states with similar old-style institutions for children or adults. Read the comment

B. Thematic work

Airlines are not immigration authorities (12.10.2010)

"European states seek to reduce immigration through improper threats of sanctions against airlines and other transport companies. They pass heavy responsibility on to the carriers in order to limit access to their territories", said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing on 12 October his human rights comment. Travel personnel, who cannot possibly have the appropriate competencies for ensuring the rights of refugees under international law, have been made to decide if someone should be allowed to board an airplane or ship – or not. Read the comment

Human rights of Roma migrants in Europe (18.10.2010)

What are the root causes of Roma migration in today's Europe? What are the human rights of Roma when they move from one country to another? What should receiving countries do to ensure that the human rights of Roma migrants are fully respected? The study republished on 18 October by Commissioner Hammarberg and the OSCE High Commissioner on National Minorities, Knut Vollebaek, aims to shed light on these topical questions. Read the study: Recent migration of Roma in Europe; Thematic page on human rights of Roma and Travellers

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)

Third European NPM Project Thematic Workshop on "NPM Methodology: planning strategies for an NPM visit", 13-14 October 2010, Yerevan, Armenia

The Third NPM Thematic Workshop, on "NPM Methodology: planning strategies for an NPM visit", was held on 13-14 October 2010 in Yerevan, Armenia. The event was co-organised with the Human Rights Defender of the Republic of Armenia (the NPM of Armenia) and saw the participation of 22 NPM experts from 18 of the 21 currently operating European NPMs, members of the SPT and the CPT, representatives of the APT as well as individual experts. The workshop was divided into three working sessions that explored the break-down of the core objective elements to planning and structuring an NPM visit in advance. Lively discussions were had and views were shared on the methodology of planning an NPM visit from the national and international perspectives.

This third NPM Thematic Workshop of the so-called 'European NPM Project' has been organised to focus on the planning strategies that an NPM might want to consider when planning and structuring a future NPM visit to any type of place of deprivation of liberty. Even though this Workshop was not geared at a specific place of detention in particular, as it was considered important to look at generic planning strategies that could underpin the preparation for visiting any place of deprivation of liberty, examples of different aspects of planning for different types of places that deprive people of their liberty were highlighted.

The aim of the present seminar was to expand upon the most important aspects of preparing well in advance and systematically an effective NPM visit to any place of detention.

Working Sessions I and II focused on the planning and structuring strategies that an NPM may want to take into consideration before embarking on the actual visit itself. These were arranged in a quasi-chronological order. Working Session III covered an overview from the national perspective of the objective planning elements that make up the different stages of the effective preparatory steps for an NPM to consider in advance of a visit. The NPM of the UK presented a brief overview of the initial stages of planning a UK NPM visit and flagged a few key issues; the Spanish NPM briefly addressed the later key stages of planning a Spanish NPM visit.