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

("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

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

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Introduction

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

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

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

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

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

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

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

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Right to life**

Khaindrava and Dzamashvili v. Georgia (no. 18183/05) (Importance 3) – 8 June 2010 – Violation of Article 2 (procedural) – Domestic authorities' failure to conduct an effective investigation (into a case concerning an assault on the first applicant's life) allowed the pursuit of private revenge

In 1997 the first applicant, Mr Khaindrava, was attacked in his home; the assailants kicked and struck his head with the butt of a gun. The next day the applicant's family filed a complaint but no action was taken, so the applicant went to look for his attackers, D.P. and G.T. He found them and took them to his house, where he arranged a meeting in September 1998 with the district prosecutor of Martvili and his deputy, so that they could question the assailants and react to his complaint. The meeting was filmed by the applicant. The assailants could be seen confirming the assault of 1997 and explaining that it had been organised by A.G. with the promise of a reward of 50,000 US dollars if Mr Khaindrava was killed or 1,500 dollars for non-lethal injuries. There had been a long-standing rivalry between him and A.G., who was the father of two high-ranking local police officers. At the end of the meeting, Mr Khaindrava told the prosecutors that it was now for them to act, and that if he was obliged to take revenge himself, they would be responsible for the consequences. The district prosecutor then suggested to the criminals that they give themselves up in return for a "human gesture" and assistance with rehabilitation, but they refused. In January 2000 Mr Khaindrava was arrested and charged, in particular, with extortion, illegal transport of weapons and unlawful confinement, in a case concerning the kidnapping of one of A.G.'s sons dating back to 1994. According to Mr Khaindrava, A.G.'s sons, fearing that he would seek revenge on their father, wanted to ensure their father's safety by arresting him. The applicant was sentenced to seven years' imprisonment. In the criminal proceedings against him, a third person who had been involved in his assault in 1997, Ko-ia, a

middleman for A.G., stated that on the night of the attack he had gone with D.P. and G.T., all three of them being drunk after a party, to beat up Mr Khaindrava at his house. Not having killed him that night, the three assailants had then attempted for several weeks, in vain, to carry out the murder so that they could claim the 50,000 dollars promised by A.G. Instead of that, they had been caught one day by the applicant, who had tied them up and taken them to his house. In a complaint of May 2001 the applicant requested the Prosecutor General to bring criminal proceedings. The video was given to the district prosecutor of Martvili in June 2001 with a transcription of the conversations, as well as the results of an internal administrative inquiry into the matter. After examination of the evidence the case was discontinued, but reopened in March 2002 following an appeal to a higher administrative authority. When questioned about the assault, the applicant and Ko-ia then refused to testify as they had doubts about the independence of the Martvili public prosecutor's office. That office discontinued the proceedings but the case was subsequently referred back to it by the Prosecutor General's office for further examination. In May 2002 the second applicant reiterated her request to the public prosecutor of Martvili that measures be taken concerning the assault on her husband's life, and her lawyer called for the investigation to be pursued. Following the publication in a national newspaper of an open letter by the second applicant, the public prosecutors who had taken part in the meeting of September 1998 were questioned and stated that, as soon as they had returned to their office that day, one of them had verbally informed the regional public prosecutor and the competent police forces. Mr Khaindrava applied to the Prosecutor General in March 2004, requesting him to bring criminal proceedings. He stated that the policy of the new government – which had come to power after the "Rose Revolution" – to bring proceedings against civil servants who had enjoyed impunity under the previous regime, made him hopeful for the outcome of the investigation in his case. His request was referred to the regional public prosecutor's office of Samegrelo-Zemo Svaneti, but no action was taken.

The first applicant alleged that the authorities had ignored his repeated requests for an investigation into the assault on his life. The applicants also complained of the prosecution authorities' inaction.

The Court noted that it was not in dispute that the treatment to which the applicant was subjected had endangered his life. The investigations into the assault therefore had to be comprehensive, impartial and diligent, and the authorities had an obligation of means to take any measures that were reasonably accessible to them in order to gather evidence concerning the incident. The assault on the applicant's life had sufficiently been brought to the attention of the public prosecutor's office, which had thus had an obligation to verify the information promptly and, if necessary, to prosecute. The authorities, however, had not reacted. The Court strongly condemned the fact that the authorities' failure to discharge their essential duties had allowed the pursuit of private revenge, which had only been put to end, according to the applicant himself, by his arrest in 2000. The Court further noted that when Ko-ia had been questioned in April 2000, the public prosecution authorities had again been informed about the assault on the applicant's life but had not reacted. Moreover, the requests by the applicant and Ko-ia to have the public prosecutors removed from the case, alleging that the public prosecutor's office of Martvili lacked independence, were clear and could not be regarded as frivolous. Lastly, there was nothing to suggest that further investigative acts had been performed before the last discontinuance of the investigation. As regards the findings of the internal inquiry within the prosecution service, which had apparently been used in the criminal investigation, the Government had not provided them or any other document from the administrative inquiry file. In addition, the Prosecutor General's office, faced with the inaction of the regional prosecutor's office, despite its attempt to secure the latter's cooperation, had not reacted effectively, even when prompted to do so by the applicant. The fact that the Prosecutor General's office had left the inquiry to be carried out by the prosecutor's office of Martvili, even though that choice had been challenged, had also failed to ensure the requisite hierarchical, institutional and practical independence on the part of officials responsible for such an inquiry. The Court concluded that Georgia had failed in its obligations to carry out an effective investigation in a case concerning an assault on the first applicant's life, and that there had therefore been a violation of Article 2 in its procedural aspect.

Petrov v. Bulgaria (no. 63106/00) (Importance 3) – 10 June 2010 – Violations of Article 2 (substantive and procedural) – Disproportionate use of firearms against the applicant by police officers – Lack of an effective investigation – Violation of Article 13 – Lack of an effective remedy – No violation of Article 14 in conjunction with Article 2 – No evidence to establish that racist attitudes played a role in events leading up to the shooting of the applicant or during the following investigation

The applicant is a Bulgarian national of Roma/Gypsy origin. The case concerned an incident in which two police officers, believing that the applicant was trying to steal some hens, intervened when he tried to escape and fired shots at him to stop him. As a result of the shooting, the applicant's kidney and part of his liver had to be removed.

The applicant complained that the life-threatening force used against him had been unwarranted and that the ensuing investigation into the incident had been ineffective. He also alleged that racist motives had been behind the excessive force used against him and that the authorities had failed to investigate that allegation.

The Court found that the respondent State had failed to comply with its obligations under Article 2 of the Convention in that the legal provisions governing the use of firearms by the police were flawed, and in that the applicant was shot in circumstances in which the use of firearms was incompatible with that provision. It also noted that the authorities had failed to carry out an effective investigation in respect of the life-threatening force used against the applicant. The Court concluded that there had been two violations of Article 2 under its substantive and procedural limb. In the present case the civil courts, much like the military prosecuting authorities before them, found that the police had been entitled to use firearms to arrest the applicant even though he was not suspected of committing a violent offence or representing a danger to anyone. The Court considered that that approach fell short of the standards stemming from the Court's case-law and prevented the proceedings from providing the applicant effective redress. There had therefore been a violation of Article 13 of the Convention. Concerning the applicant's complaint under Article 14 in conjunction with Article 2, the Court considered that it had not been established that racist attitudes played a role in events leading up to the shooting of the applicant. Concerning the procedural aspect, the Court did not consider that the authorities had information before them that was sufficient to bring into play their obligation to investigate possible racist motives on the part of the officers. It followed that there had been no violation of Article 14 in conjunction with Article 2.

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

Zakharkin v. Russia (no. 1555/04) (Importance 2) – 10 June 2010 – Two violations of Article 3 – Conditions of detention – Lack of adequate medical treatment – Violation of Article 6 § 1 – The court that had convicted the applicant could not be regarded as a "tribunal established by law" – Violation of Article 34 – Interference with the applicant's right to individual petition on account of the restriction of the applicant's contact with his non-advocate representative before the Court

The applicant is currently serving a sentence of life imprisonment in the Perm Region for armed robbery, murder and attempted murder of a policeman. The applicant was arrested in Yekaterinburg in October 1999. He was first detained in a district police station and several temporary detention facilities, and then transferred in November 1999 to a remand centre in Yekaterinburg where he remained for the entire duration of the criminal proceedings against him. His conviction was ultimately upheld in July 2006 by the Supreme Court, which rejected the applicant's complaint that the composition of the trial court had been unlawful. Although the applicant was represented by two advocates in the domestic proceedings, he retained an NGO lawyer specialising in international protection of human rights to represent his interests before the Court. However, that lawyer was never allowed to visit him despite repeated requests. The Regional Court eventually issued the lawyer with a visitor's permit; however, the remand centre management did not allow her to meet the applicant, on the ground that she did not possess a judicial decision by which she had been admitted to act as counsel for the applicant in the domestic proceedings. The Government submitted that the conditions of the applicant's detention had been satisfactory and that, according to his medical records, he had regularly consulted the remand centre doctor, been taken to the prison hospital for more thorough examinations and been seen by a specialist and that he had received the medication prescribed to him.

The applicant complained about the appalling conditions in Yekaterinburg remand centre complaining of the coldness of the cells, insufficient access to daylight and poor sanitary conditions. Notably he complained about having been held in one cell from October 2002 to November 2003 with no window glazing, only a piece of polythene to cover the opening, with outside temperatures descending at times to -30˚. He also complained about the inadequate medical care there for his rheumatoid arthritis. He further complained about the unfairness of the criminal proceedings against him. Lastly, he alleged that the authorities prevented him from meeting with the lawyer he had chosen to help him prepare his application to the Court.

Article 3

Conditions of detention

The Court noted the cumulative effect of the conditions of the applicant's detention which he had described in detail, and which he had corroborated with photographs. It particularly referred to the fact that the applicant had been held for almost one year in a cell which had an unglazed window and that such lengthy exposure to low temperatures, despite it having been specifically and repeatedly

forbidden to him by doctors, had amounted in itself to inhuman treatment. The Court was indeed appalled by the photographs submitted and found that such conditions could only be described as degrading and unfit for decent habitation. Furthermore, the lack of daylight and, in certain cells, of fresh air had to have contributed to the already accumulated distress. Those cumulative factors were sufficient to enable the Court to conclude that the conditions of the applicant's detention in the Yekaterinburg remand centre had to have aroused in him feelings of anguish and inferiority capable of humiliating and debasing him and had therefore amounted to inhuman and degrading treatment, in violation of Article 3.

Inadequate medical care

The applicant's medical records did not contain any entries confirming that the medication prescribed to him, recommended in order to soothe the inflammation in his affected joints and reduce the pain had in fact been administered. The Yekaterinburg remand centre custodial authorities, having left the applicant to suffer considerable pain for a prolonged period of time, had therefore failed to meet the Convention requirements of medical care for detained persons and had subjected him to inhuman and degrading treatment, in further violation of Article 3.

Article 6 § 1

The Government had failed to produce any documents to prove the legal basis for the appointment of two of the lay judges at the applicant's trial court. Nor had the domestic authorities been able to produce any evidence that those persons had in fact ever been elected to serve as lay judges. The court which had convicted the applicant, thus undermined by serious defects in the initial selection of the lay judges, could not be regarded as a "tribunal established by law", in violation of Article 6 § 1.

Article 34

The refusal of visits by the lawyer chosen by the applicant to represent him before the Court, not based on any security risk or fear of collusion or perversion of the course of justice, had been due to a gap in domestic law, which was designed to govern meetings with counsel in domestic proceedings and did not envisage requests for visits from representatives before the Court. Indeed, non-advocate representatives, such as the applicant's representative in this case, are faced with difficulties in obtaining permission to visit their clients due to this gap in the law. The restriction of the applicant's contacts with his representative before the Court had therefore constituted an interference with his right to individual petition, in violation of Article 34.

Ciupercescu v. Romania (no. 35555/03) (Importance 2) – 15 June 2010 – No violation of Article 3 – The applicant's classification as a dangerous prisoner was justified due to the seriousness of the offences he had committed – Two violations of Article 3 – (i) Inhuman treatment on account of the body searches of the applicant of a routine nature carried out by masked warders – (ii) "Appalling" physical conditions of detention in the dangerous prisoners' wing of Bucharest-Jilava Prison

A former serviceman, the applicant was arrested in March 2003 on suspicion of stealing munitions and explosives and using them in public places (in particular, injuring five schoolchildren and causing damage to property) with a view to extorting money from the Prime Minister. He was immediately taken into police custody and placed in pre-trial detention. A forensic medical report found that he was suffering from antisocial personality disorders. Having regard to the nature of the accusations against him, the management of Bucharest-Jilava Prison decided to classify him as a "dangerous prisoner". In November 2003 the applicant was transferred to the wing for dangerous convicted prisoners. He was required to share a nine-bed cell (measuring approximately 14 sq. m) with 19 other prisoners, all of whom had been sentenced with final effect to between 10 and 27 years' imprisonment. He was placed under the special detention regime for dangerous prisoners, involving, among other things, close surveillance by masked officers, unannounced body searches on a weekly basis (with a requirement to undress completely) and whenever he left the prison (with a requirement to undress partially), personal searches whenever he left or entered his cell, and restrictions on exercise and visiting rights. In July 2004 the applicant lodged a complaint with the Bucharest Court of First Instance concerning his detention regime objecting in particular to being placed in the dangerous prisoners' wing together with convicted prisoners. The public prosecutor argued, in particular, that prison overcrowding made it impossible to detain him with other remand prisoners, especially as the offences for which he was being prosecuted were extremely serious. The applicant's complaint was allowed in October 2004 and upheld on appeal in December 2004. The applicant did not obtain the damages he had sought, but in February 2005 he was transferred to the remand prisoners' wing of Rahova Prison. In June 2005 and March 2006 the applicant brought two actions against the National Prison Service, seeking damages for being unlawfully detained from 11 November 2003 to 11 February 2005 in a cell with convicted prisoners, under the dangerous prisoners' regime and in inhuman conditions. The actions were

dismissed by the Bucharest Court of First Instance in January 2006 and November 2007 respectively. In December 2005 the applicant applied to set aside the prison authorities' decision to declare him a "dangerous prisoner", but that action was likewise dismissed in a final judgment in September 2006 by the Bucharest County Court. In the criminal proceedings on the merits, following an investigation from March to October 2003, the case was sent for trial in the Bucharest County Court. In a judgment of November 2006 the Bucharest Court of Appeal sentenced the applicant to 18 years' imprisonment for terrorism and disqualified him from exercising certain rights.

The applicant objected that he had been placed under the detention regime for dangerous prisoners and complained about the conditions of his detention in Bucharest-Jilava Prison, in particular overcrowding.

Classification of the applicant as a dangerous prisoner

The Court examined firstly whether, in itself, the applicant's classification as a dangerous prisoner had been in breach of Article 3. It pointed out that such a measure did not in itself fall within the scope of Article 3 unless it was arbitrary. In the applicant's case, in view of the extremely serious nature of the offences of which he had been accused and subsequently convicted, the Court accepted the national authorities' decision. It further noted that, if he had so desired, he could have asked the national courts to review his detention regime. Article 3 had therefore not been breached as regards this first point. The Court then focused in particular on the searches to which the applicant had been subjected. Again, such searches were not in themselves illegal, but in the applicant's case they had had two defects. Firstly, on account of their routine nature, they had not met any convincing security needs. Secondly, they had not been conducted in an appropriate manner. Since the relevant rules were not sufficiently precise, prisoners being required to undress was a matter for the discretion of prison staff, leaving the prisoners with the impression of being subjected to arbitrary measures. The Court further noted that during the applicant's detention in the dangerous prisoners' wing of Bucharest-Jilava Prison, masked warders had carried out the searches and had stood near the prisoners when they received visits; the Court expressed concern about this intimidating practice, which, without being designed to humiliate the applicant, might have aroused a feeling of anxiety in him. Although, according to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (CPT), such a practice was no longer applied, the applicant must nevertheless have been subjected to it during his detention in Bucharest-Jilava Prison. Article 3 had therefore been breached as regards this point.

Physical conditions of detention in Bucharest-Jilava Prison

The Court noted that in Bucharest-Jilava Prison the applicant had shared a nine-bed cell with 19 other detainees. Each prisoner had therefore had approximately 0.75 sq. m of living space. Even if the applicant had not been required to share his bed, the space available to each prisoner would have been approximately 1.50 sq. m, well below the standard recommended by the CPT (4 sq. m) in the report it had issued after its most recent visit to Romanian detention facilities, including Jilava Prison. The Court also took into account the fact that the available space had in fact been further reduced by the presence of furniture, and that the applicant had been confined to the cell for most of the day. In addition, the fact that he had been required to share his cell with convicted prisoners (in breach of Romanian law) was an aggravating factor. Lastly, the Court noted that in the report it had issued one year after the applicant had moved to another prison, the CPT had described the physical conditions of detention in the dangerous prisoners' wing of Bucharest-Jilava Prison as "appalling". Accordingly, there had been a further violation of Article 3 as regards this last point.

Ashot Harutyunyan v. Armenia (no. 34334/04) (Importance 3) – 15 June 2010 – Two violations of Article 3 – (i) Lack of adequate medical care in detention for a prisoner suffering from a number of serious illnesses – (ii) Degrading treatment on account of the stringent and humiliating measure of placing the applicant in a metal cage during his trial – No violation of Article 6 §§ 1 and 2 – No infringement of the principle of equality of arms and of the applicant's right to being presumed innocent on account of his placement in a metal cage during the proceedings

The applicant died of a heart attack in Kosh prison in January 2009 while serving a sentence for fraud, falsification of documents and tax evasion. The applicant suffered from a number of illnesses prior to his detention, including an acute bleeding duodenal ulcer, diabetes and a heart condition. Arrested in May 2003 on suspicion of defrauding his business partner, the applicant – who had no previous convictions – was found guilty as charged by the District Court of Yerevan in January 2004 and sentenced to seven years' imprisonment. He lodged an appeal in February 2004; the proceedings lasted from March to May 2004 and ended with his sentence being upheld. At each of the 12 hearings – lasting on average about four hours – before the Court of Appeal, he was kept in a metal cage. The applicant alleged that that had amounted to humiliation and violated his dignity, further aggravated by seeing the pain of his family and friends, present at the hearings. His conviction was ultimately upheld

in July 2004 by the Court of Cassation. The applicant was held in Nubarashen Detention Facility from the date of his arrest in May 2003 until being transferred to the Kosh prison in August 2004, just after his conviction at final-instance. Between those dates he spent periods in a hospital for prisoners and in the detention facility's medical unit. The applicant alleged in particular that, despite a recommendation made in June 2003 by the medical unit's doctor for him to have surgery for his ulcer, no operation was ever carried out. He further claimed that between August 2003 and August 2004, he was not provided with regular check-ups, medication or a special diet. During that period he asked on numerous occasions for medical assistance, to no avail. The applicant's lawyer also lodged numerous unsuccessful complaints requesting that his client be transferred to a hospital and receive treatment. In the meantime in July 2004, the applicant had a heart attack in the detention facility. The lawyer subsequently received replies to his complaints but they simply stated that his client had received treatment and his health was satisfactory. The Government submitted that the applicant had been placed under adequate supervision and care while in detention; he had had access to a doctor at any time and was promptly examined and received treatment whenever requested or required. It added that the applicant had had surgery for his ulcer when hospitalised in June 2003 and that he had been discharged in a satisfactory condition. Released in March 2007 in view of his good behaviour, he was subsequently, the decision allowing his release having been quashed, taken back into prison where he died in January 2009.

The applicant complained that he had not received adequate medical care in detention and that he had been placed in a metal cage when in court during the appeal proceedings.

Article 3

Lack of medical care in detention

The Court found that, given his number of serious illnesses (undisputed by the parties), the applicant had clearly been in need of regular care and supervision. However, there was no medical record to prove that the surgery recommended by a doctor had ever been carried out. Nor did the applicant's medical file contain a single record of any check-up by or assistance from the detention facility's medical staff between August 2003 and August 2004. Especially worrying was the fact that the applicant's heart attack in July 2004 coincided with the several unsuccessful attempts made by his lawyer to draw the authorities' attention to the need for his client to receive medical care. Indeed, the lack of response – or purely formal replies – to the lawyer's complaints as well as to the applicant's verbal requests for medical assistance had to have given rise to considerable anxiety and distress for the applicant, which had gone beyond the unavoidable level of suffering inherent in detention, in violation of Article 3.

The applicant had been seated in a metal cage during his appeal trial

The Court noted that nothing in the applicant's behaviour or personality could have justified such a security measure: he had no previous convictions, no record of violent behaviour – for example during the first-instance proceedings where no security measures had been applied – and he was accused of a non-violent crime. Indeed, it seemed that the applicant had been placed in a metal cage simply because that had been the seat where defendants in criminal cases were always placed. The average observer could easily have believed that an extremely dangerous criminal had been on trial. Such a form of public exposure – observed by a public made up of his family and friends – had to have humiliated him and aroused in him feelings of inferiority, impairing his powers of concentration and mental alertness during proceedings where much – his criminal liability – had been at stake. The Court therefore concluded that such a stringent and humiliating measure, not justified by any real security risk, had amounted to degrading treatment, in further violation of Article 3.

Article 6 §§ 1 and 2

The Court disapproved of such an indiscriminate and humiliating security measure as used during the appeal proceedings in the applicant's case. However, he had had two lawyers to assist him and there was nothing to suggest that the metal cage had prevented him from communicating with them or the court. Nor did placing the applicant in a metal cage suggest that the Court of Appeal had presumed the applicant to be guilty, the cage having been a permanent security measure used in all criminal cases examined there. The Court concluded that there had been no infringement of the principle of equality of arms and that the applicant's presumption of innocence had not been breached. There had been no violation of Article 6 §§ 1 and 2.

Sherstobitov v. Russia (no. 16266/03) (Importance 3) – 10 June 2010 – Two violations of Article 3 (substantive and procedural) – (i) Ill-treatment in police custody – (ii) Lack of an effective investigation – Violations of Article 5 §§ 1 (c) and 3 – Unlawfulness and excessive length of pre-trial detention – Violation of Article 6 § 1 – Excessive length of criminal proceedings

The applicant complained about having been tortured in police custody in January 2002 on suspicion of sexually assaulting a nine-year old boy. He also complained about having been detained unlawfully and for too long pending trial, as well as about the length of the criminal proceedings against him.

The Court was not convinced by the Government's argument that the injuries the applicant sustained had not been sufficiently serious to attain "a minimum level of severity". The Court considered that the decision of the officer at the temporary detention centre who discovered the injuries on the applicant's body to send him to hospital and the numerous abrasions and bruises diagnosed by the doctor who examined the applicant indicate that his injuries were sufficiently serious to amount to ill-treatment within the scope of Article 3. Having regard to the above, the Court concluded that on 30 January 2002 the applicant was subjected to ill-treatment for which responsibility lay with the domestic authorities and which amounted to inhuman treatment contrary to Article 3 of the Convention. There had been a violation of Article 3 of the Convention under its substantive limb. The Court also did not lose sight of the fact that the applicant was acquitted on all charges and the trial court established that the confession had actually been dictated to him by police officers. Contrary to the trial court's findings, the investigator reiterated that the applicant had voluntarily confessed to the crime, as one of the policemen alleged. The Court concluded that the investigation into the applicant's complaint of ill-treatment in police custody could not be considered "effective". There had therefore been a violation of Article 3 of the Convention under its procedural limb. The Court also concluded that there had therefore been a violation of Article 5 § 1 (c) and Article 5 § 3 on account of the applicant's detention from 29 October to 31 December 2002.

The Court noted that the fact that the applicant was held in custody during the first and second trials required particular diligence on the part of the authorities dealing with the case to administer justice expeditiously. Having regard to the foregoing, the Court considered that the length of the criminal proceedings against the applicant did not satisfy the "reasonable time" requirement. There had accordingly been a breach of Article 6 § 1 of the Convention.

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

Garayev v. Azerbaijan (no. 53688/08) (Importance 3) – 10 June 2010 – Violation of Article 3 – There would be a violation of Article 3 if the applicant were to be expelled to Uzbekistan – Violation of Article 13 – Lack of an effective remedy – Violation of Article 5 §§ 1 (f) and 4 – Unlawful detention – Lack of an effective procedure to review the lawfulness of the detention

The applicant is an Uzbek national. He has been detained since April 2008 in a remand facility in Baku pending extradition to Uzbekistan on charges of the murder of six persons and the mutilation of their corpses.

The applicant alleged that, if extradited, he would be at risk of being tortured by the Uzbek law-enforcement authorities. He notably submitted that the Uzbek authorities had persecuted him and his family and subjected them to torture and inhuman and degrading treatment in the past. He also complained that his detention pending extradition was unlawful and that there had been no judicial review of his detention, in breach of Article 5 §§ 1 (f) and 4 of the Convention.

Concerning the Government's arguments that specific assurances were obtained from the Uzbek authorities in the applicant's case, the Court noted that the Deputy Prosecutor General of Uzbekistan wrote in a letter of July 2008 that the applicant would not be subjected to torture, inhuman or degrading treatment or punishment after extradition. The Court observed, however, that it is not at all established that the Deputy Prosecutor General or the institution which he represented was empowered to provide such assurances on behalf of the State. In any event, even if such assurances were obtained, they were not in themselves sufficient to ensure adequate protection against the risk of ill-treatment and would not have absolved the Court from the obligation to examine whether such assurances provided, in their practical application, a sufficient guarantee that the applicant would be protected against the risk of treatment prohibited by the Convention. Given that the practice of torture is described by reputable international human rights reports as being systematic, the Court is not persuaded that the assurances from the Uzbek authorities offered a reliable guarantee against the risk of ill-treatment. The Court concluded that the applicant's extradition to Uzbekistan would be in violation of Article 3. The Court observed that the applicant challenged the Prosecutor General's extradition order before the Sabail District Court and the Baku Court of Appeal. However, the Court noted that, despite the fact that the applicant had explicitly complained of the risk of torture or ill-treatment and that his allegations in this regard were sufficiently serious, the domestic courts ignored his arguments. The decisions of the domestic courts were silent as to the risk of torture and ill-treatment in Uzbekistan and it did not appear that the courts ever took these considerations into account when they examined the question of the applicant's extradition. Accordingly there has been a violation of Article 13. The Court further concluded that the provisions of the Azerbaijani law governing detention of persons with

a view to extradition were neither precise nor foreseeable in their application and fell short of the "quality of law" standard required under the Convention. Further it noted that throughout the applicant's detention pending extradition he did not have at his disposal any procedure for a judicial review of its lawfulness. Accordingly it held that there had been a violation of Article 5 §§ 1 (f) and 4.

Kolesnik v. Russia (no. 26876/08) (Importance 3) – 17 June 2010 – Violation of Article 3 – There would be a violation of Article 3 if the first applicant were to be expelled to Turkmenistan – Violation of Article 5 §§ 1 and 4 – Unlawful detention – Lack of an effective procedure to review the lawfulness of the detention

The applicants are a Turkmenistan national, and her husband, a Russian national, who live in the Tula Region. The case concerned the first applicant's complaint that, if extradited to Turkmenistan, where she stands accused of fraud, she would be at real risk of torture and inhuman or degrading treatment. She also alleged that her detention pending extradition between August 2007 and August 2008 had been unlawful and not subject to judicial review.

The Court found that the dismissal by the courts of the first applicant's complaints was based on the assumption that she had relied on general information which was not matched by her personal circumstances. However, having regard to the information about the situation in Turkmenistan and the fact that the first applicant is charged with crimes potentially entailing a lengthy prison sentence there, the Court found that she has sufficient grounds to fear that she would be at serious risk of being subjected to treatment contrary to Article 3 of the Convention.

In its previous judgments, the Court was also unwilling to accept the diplomatic assurances furnished by the Turkmen Government, given that there appeared no objective means to check whether they had been fulfilled. The Court also would state that it has already found that diplomatic assurances were not in themselves sufficient to ensure adequate protection against the risk of ill-treatment where reliable sources have reported practices resorted to or tolerated by the authorities which were manifestly contrary to the principles of the Convention. Likewise, in the present case the Court was unable to agree with the Government that the assurances given by the Turkmen authorities would suffice to guarantee protection for the first applicant against the serious risk of ill-treatment in the event of extradition. In view of the above, the Court found that the first applicant's extradition to Turkmenistan would be in violation of Article 3. The Court found that the first applicant's detention pending extradition was not "lawful" for the purposes of Article 5 § 1 of the Convention and that the first applicant did not have at her disposal any procedure by which the lawfulness of her detention could have been examined by a court. Accordingly there had been a violation of Article 5 §§ 1 and 4.

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

Schwizgebel v. Switzerland (no. 25762/07) (Importance 1) – 10 June 2010 – No violation of Article 14 in conjunction with Article 8 – Domestic authorities' refusal to grant the applicant an authorisation for adoption had not been discriminatory or arbitrary

The applicant is single. In 1996 she filed her first application for authorisation to take in a child with a view to adoption (adoption by a single parent being possible under Swiss law) with the authorities of the Canton of Geneva. However, after being informed that she would probably receive an unfavourable response, she withdrew that application. She filed a new application in 1998 with the authorities of the Republic and Canton of the Jura, the area to which she had moved. She obtained the necessary authorisation from the social services and in 2000 she took in a Vietnamese child, whom she adopted in June 2002. From July 2002 onwards the applicant sought authorisation to take in a second child for adoption, this time a three-year-old from South America. The social services refused to grant authorisation and their refusal was upheld by the courts. After moving back to Geneva, the applicant twice requested authorisation from the authorities of that Canton in respect of a second child. Her applications were again rejected, in July 2004 and September 2005, and she was unsuccessful in appeals to the courts. In connection with the second of those applications, she appeared in person before the cantonal authority and stated that she wished to adopt a five-year-old child, if possible from Vietnam like her first child. In dismissing her appeal, on 24 April 2006, the Court of Justice of the Canton of Geneva did not call into question her child-raising capacities or her financial resources. It took the view, however, that the adoption of a second child could entail an unfair interference with the situation of the first and that the applicant had underestimated the difficulties of her new plan for international adoption. It further expressed reservations about her availability for another child. In the last instance, in a judgment of 5 December 2006, the Federal Court dismissed the applicant's administrative appeal. It had regarded in particular to what would be in the child's best interests, together with the applicant's age and her age-difference in relation to the child (between 46 and 48 years, which was regarded as excessive).

The applicant complained that the Swiss authorities had prevented her from adopting because of her age (47 and a half at the time of her last application). She claimed among other things that she had been discriminated against in comparison with other women of her age, who were able nowadays to give birth to children of their own. She relied in substance on Article 14, taken together with Article 8 of the Convention.

The Court first examined whether the applicant had been subjected to a difference of treatment by the Swiss authorities in relation to persons in a comparable situation. It found that this was not the case in relation to women who were able to give birth at that age (the State having no influence as regards the possibility for a woman to have genetically-related children or the contrary). It would be different, however, if her situation were compared with that of a younger unmarried woman, who, in the same circumstances, might succeed in obtaining authorisation to take in a second child for adoption. The applicant could therefore claim that she was a victim of a difference of treatment between persons in a comparable situation. The Court then examined whether that difference of treatment had had an objective and reasonable justification. In the proceedings for the adoption of a second child, the authorities had in particular based their refusal on the applicant's age-difference with the child to be adopted (between 46 and 48 years), which was regarded as excessive and contrary to the child's interests. The Court sought to ascertain whether, in this area, there was a common denominator among the legal systems of the member States of the Council of Europe. It concluded that this was not so: a single person's right to adopt was not guaranteed in all States – in any event, not absolutely – and as regards the age of the adopter or the age-difference between the adopter and the child, the solutions differed considerably from one State to another. The Court thus took the view that, in the absence of any consensus, the Swiss authorities had considerable discretion to decide on such matters, and that both the domestic legislation and the decisions taken in the present case seemed to be consonant with the solutions adopted by the majority of the member States of the Council of Europe and, moreover, to be compliant with the applicable international law. Nor could any arbitrariness be detected in the present case: the authorities had taken their decisions in the context of adversarial proceedings allowing the applicant to submit her arguments, which had been duly taken into account by those authorities. Their decisions, containing ample reasoning, had been based in particular on the comprehensive enquiries by the cantonal authorities. They had considered not only the best interests of the child to be adopted, but also those of the child already adopted. Moreover, the Court emphasised that the criterion of the age-difference between the adopter and the child had been applied by the Federal Court flexibly and having regard to the circumstances of the situation. Lastly, the other arguments given in support of the decisions, i.e. those not based on age, had not been unreasonable or arbitrary. In those circumstances, the difference of treatment imposed on the applicant had not been discriminatory. There had not therefore been a violation of Article 14 taken together with Article 8.

- **Freedom of thought, conscience and religion**

Jehovah's Witnesses of Moscow v. Russia (no. 302/02) (Importance 1) – 10 June 2010 – Violation of Articles 9 and 11 – Unjustified dissolution and refusal to re-register a Jehovah's Witnesses religious community in Moscow – Violation of Article 6 § 1 – Excessive length of dissolution proceedings

The applicants are the religious community of Jehovah's Witnesses of Moscow ("the applicant community"), established in 1992, and four individuals who are members of that community and live in Moscow. Jehovah's Witnesses have been present in Russia since 1891. They were banned after the Russian Revolution in 1917 and persecuted in the Soviet Union. After the adoption of the 1990 law on Freedom of Conscience and Religious Organisations, the applicant community, which is the Moscow branch of the Jehovah's Witnesses, obtained legal-entity status in December 1993 from the Moscow City Justice Department. According to its charter, its purpose was the "joint profession and dissemination of their faith and carrying on religious activity to proclaim the name of God the Jehovah". Starting in 1995, a non-governmental organisation aligned with the Russian Orthodox Church and called "the Salvation Committee" complained five times of the applicant community's management before the district prosecution office. As a result, criminal investigations were opened and subsequently discontinued upon the recommendation of an investigator to bring a civil action against the applicant community seeking its dissolution and the banning of its activities. In April 1998, the prosecutor brought a civil action to that effect. The relevant district court, having heard over forty witnesses and experts and examined religious literature and documents, found the complaints unfounded. Upon an appeal by the prosecutor, the case was remitted for a fresh examination by a different composition of the court. In the meantime, a new Law on Freedom of Conscience and Religious Associations ("the Religious Act") entered into force in October 1997. It required all religious associations that had previously been granted legal-entity status to bring their articles of association

into conformity with that Act and to obtain re-registration from the competent justice department. Between 20 October 1999 and 12 January 2001 the applicant community applied for re-registration five times, unsuccessfully. In August 2002, the competent domestic court held that the Moscow Justice Department's refusals were unlawful but did not order re-registration referring to the need for the applicants to submit a fresh application for re-registration as the documents' form had changed in the meantime. A new round of the 1998 civil proceedings against the applicant community ended in March 2004 with a court decision ordering its dissolution and imposing a permanent ban on its activities. The court found the applicant community responsible for, among other things, luring minors into religious associations against their will and without the consent of their parents; coercing believers into destroying the family; infringing the personality, rights and freedoms of citizens; inflicting harm on the health of citizens; encouraging suicide or refusing on religious grounds medical assistance to persons in life- or health-threatening conditions; and inciting citizens to refuse to fulfil their civil duties. The applicant community was ordered to bear the costs of the expert studies used in the proceedings and to pay costs of 102,000 Russian roubles to the State. Their appeal was dismissed.

The applicants complained about the dissolution of the community and the banning of its activities, and about the refusal of the Russian authorities to re-register their organisation. They also complain of the excessively long dissolution proceedings.

Dissolution of the applicant community (Article 9 in the light of Article 11)

The Court recalled its settled case law in which it had held that freedom of thought, conscience and religion was one of the foundations of a democratic society. It was also one of the most vital elements for the identity of believers but also a precious asset for the atheists, agnostics, sceptics and the unconcerned. The pluralism, dearly won over the centuries and not dissociable from a democratic society, depended on it. The decision of the Russian courts to dissolve the applicant community and to ban its activities had resulted in its inability to exercise its right to own or rent property, to maintain bank accounts, to hire employees and to ensure judicial protection of the community, its members and its assets. That decision had been based on the Religious Act and had pursued the legitimate aim of the protection of health and the rights of others in accordance with Articles 9 and 11. However the Court found that the decision on the applicant community's dissolution had not rested on an appropriate factual basis. In particular, the domestic courts had not adduced relevant and sufficient reasons to show that the applicant community had forced families to break up, that it had infringed the rights and freedoms of its members or third parties, that it had incited its followers to commit suicide or refuse medical care, that it had impinged on the rights of non-Witness parents or their children, or that it had encouraged members to refuse to fulfil any duties established by law. The limitations imposed by the applicant community on its members, such as the expectation to pray, preach door-to-door and the regulation of their leisurely activities, had not differed fundamentally from similar limitations imposed by other religions on their followers' private lives. In addition, the domestic courts' conclusion that coercion had been used to force members to join the community had been made without any evidence for it. As regards the fact that the applicant community had preached the abstaining from blood transfusions, even in life-threatening situations, that had been insufficient to trigger such a far-reaching measure as the ban on its activities since Russian law had granted patients the freedom of choice concerning the medical treatment to undergo. Consequently, the dissolution of the community had been an excessively severe and disproportionate sanction compared to the legitimate aim pursued by the authorities. There had accordingly been a violation of Article 9 of the Convention, read in the light of Article 11.

Refusals to re-register the applicant community (Article 11 in the light of Article 9)

The Court noted that the ability to establish a legal entity is one of the most important aspects of freedom of association without which that right would be deprived of meaning. The applicant community had existed and operated lawfully in Russia since 1992. Following the adoption of the 1997 Religious Act, several applications for re-registration filed by the applicant community had been rejected, which had had the effect of barring the possibility of filing further applications for re-registration. The Moscow Justice Department had acted arbitrarily having consistently omitted to specify why it deemed the applications incomplete. The Court further noted that while the Religions Act had not made re-registration conditional on the use of specific forms, the applicant community had nonetheless been requested to resubmit its re-registration request using new forms. It had done that in its fifth and final application, which had also been rejected. No reference had been made by the authorities, however, to the specific legal provisions which could have been used by the applicant community in order to resubmit an application for re-registration after the expiry of the time-limit allowed by law on 31 December 2000. The Court concluded that in denying re-registration to the Jehovah's Witnesses of Moscow, the Moscow authorities had not acted in good faith and had neglected their duty of neutrality and impartiality *vis-à-vis* the applicant community. There had therefore been a violation of Article 11 of the Convention read in the light of Article 9.

Excessive length of dissolution proceedings (Article 6)

The Court noted that the applicant community's actions or inaction had caused a delay of about six month to those proceedings. However, the authorities had been accountable for approximately five and a half years of the duration of the proceedings. Given that States had the duty to organise their judicial system in a way so that courts could decide cases within a reasonable time, the Court found that the length in the dissolution proceedings had been excessive, in violation of Article 6 § 1.

Grzelak v. Poland (no. 7710/02) (Importance 3) – 12 June 2010 – Violation of Article 14 in conjunction with Article 9 – Infringement of the third applicant's right not to manifest his religion or convictions on account of school authorities' difference in treatment between non-believers who wished to follow ethics classes and pupils who followed religion classes

The applicants complained that the school authorities failed to organise a class in ethics for Mateusz, failed to give him a mark in his school report in the place reserved for "religion/ethics", and that Mateusz was harassed and discriminated against for not following religious education classes.

In August 1992 the Ombudsman challenged the conformity of numerous provisions of the Ordinance on the organisation of religious instruction in State schools with the constitutional provisions in force at the material time and the Freedom of Conscience and Religion Act. The Ombudsman objected to, among other provisions, paragraph 9 of the Ordinance, arguing that the insertion of a mark for "religion/ethics" on school reports was unacceptable since reports were official documents issued by State schools and the teaching of religion was the prerogative of the Church. In addition, this provision created the risk of intolerance. He further alleged that the provision in question was in breach of the constitutional principle of separation of Church and State and the principle of the State's neutrality, as provided for in the Freedom of Conscience and Religion Act. The Ombudsman also contested the obligation imposed on parents (pupils) to make a "negative declaration" to the effect that they did not wish their children to follow religious instruction in a State school (paragraph 3(3) of the Ordinance). He argued that no public authority in the State, which had a duty to remain neutral in the sphere of religious beliefs and philosophical convictions, could require citizens to make such declarations. The Ombudsman further alleged that paragraph 12 of the Ordinance allowed for excessive display of crucifixes in other places in schools than classrooms designated for religious instruction.

The Court noted that it was not satisfied that the difference in treatment between non-believers who wished to follow ethics classes and pupils who followed religion classes was objectively and reasonably justified and that there existed a reasonable relationship of proportionality between the means used and the aim pursued. The Court considered that the State's margin of appreciation was exceeded in this matter as the very essence of the third applicant's right not to manifest his religion or convictions under Article 9 of the Convention was infringed. There had accordingly been a violation of Article 14 taken in conjunction with Article 9 of the Convention.

- **Freedom of expression**

Sapan v. Turkey (no. 44102/04) (Importance 2) – 8 June 2010 – Violation of Article 10 – The seizure of a book about a Turkish singer addressing the social phenomenon of stardom was not "necessary in a democratic society"

In 2001 the applicant's publishing house published a book entitled "Tarkan – anatomy of a star" (*Tarkan – yıldız olgusu*), in which a doctoral thesis was reproduced in part. The first part of the book analysed the emergence of stardom as a phenomenon in Turkey and the second part focused on Tarkan, a well-known pop singer there. The book also contained 31 pictures of Tarkan that had been published in the press and 3 magazine covers featuring the star. In September 2001 the singer lodged a complaint with the Istanbul Court of First Instance requesting that the book be seized and its distribution prohibited, considering that it adversely affected his image and his personality rights. He based his complaint on the fact that the book bore his name and contained photos of him, and that nine brief passages featured speculation about his sexual inclination, his allegedly effeminate side and certain poses deemed explicit. The court allowed his complaint and ordered the book to be seized. In October 2001 Tarkan brought an action for damages against the applicant and the book's author before the same court, for infringement of his personality rights. The applicant applied for the seizure order to be lifted, arguing that it was unfounded and unjustified. He submitted that the book was the result of scientific and sociological research and should be viewed as a whole. The judge dismissed his application, without giving reasons. The applicant twice renewed his application for the seizure order to be lifted, but both applications were again rejected, in September 2002 and September 2003, without any reasons being given, in spite of two expert reports, produced at the court's request, which were favourable to the applicant. In its decision on the merits in May 2004, the court finally rejected

the singer's claim for damages and lifted the seizure order on the book. In the light of the expert reports and the book as a whole, it found that the passages containing sociological research, which were partly taken from publications and audiovisual productions, had not been written with a view to infringing Tarkan's personality rights. However, in November 2005 the Court of Cassation set that judgment aside. Considering that the book "addressed subjects related to the singer's personal life rather than his public persona", it found that it had infringed his personality rights. The proceedings are still ongoing in the Turkish courts.

The applicant complained about the seizure of the book and the decision ordering it, which he considered unjustified. He further complained about the loss allegedly sustained because of the seizure of the book.

The main question the Court had to examine was whether the seizure of the book – a measure prescribed by law and pursuing the legitimate aim of protecting the rights of others – was an interference with freedom of expression that could be considered "necessary in a democratic society".

First of all, the Court noted that the book in dispute partly reproduced a doctoral thesis, and emphasised the importance of academic freedom. The researcher who wrote the book analysed the "star" phenomenon and its emergence in Turkey, before turning his attention to the singer's arrival on the music scene and his rise to stardom. Through Tarkan, therefore, and using scientific methods, the book addressed the social phenomenon of stardom. It could not be compared with the tabloid press, or gossip columns, whose role was generally to satisfy the curiosity of a certain type of reader about details of celebrities' private lives. As to the nature of the photographs used to illustrate the book, the Court noted that they were all pictures for which the singer had posed and which had already been published. The Court went on to note that the court whose role it had been to examine the need for the restriction imposed on the applicant's freedom of expression had ordered the book to be seized based on the singer's complaints, without giving any reasons and it also had rejected the applicant's subsequent requests for the lifting of the seizure without giving reasons. In spite of the findings of expert reports in the applicant's favour, the ban on the book had lasted almost two years and eight months, until the judgment on the merits was pronounced. These considerations led the Court to find that, in the absence of sufficient and relevant reasons, the seizure of the book could not be considered necessary in a democratic society. There had therefore been a violation of Article 10.

Andreescu v. Romania (no. 19452/02) (Importance 2) – 8 June 2010 – Violation of Article 6 § 1 – Conviction of the applicant without hearing evidence from him– Violation of Article 10 – Unjustified interference of the applicant's right to freedom of expression on account of his public speech in the context of a nationwide debate on the application of the law concerning citizens' access to the personal files kept on them by the *Securitate*

The applicant is a well-known human rights activist in Romania and a founding member of the Romanian Helsinki Committee, as well as various non-governmental organisations. He is also a senior lecturer in ethics and political science and a regular contributor to a number of publications. During the communist period he was placed under house arrest for criticising the regime and participating in peaceful protest actions. The applicant was among those who campaigned for the introduction of a law that gives all Romanian citizens the right to inspect the personal files held on them by the *Securitate* (the Romanian intelligence service under the former regime) and, with regard to civil society in general, allows access to information of public interest relating to persons in public office who may have been *Securitate* agents or collaborators. A public agency, the National Council for the Study of the Archives of the *Securitate* (CNSAS) is responsible for the application of Law no. 187, which sparked considerable political debate and ongoing media interest. In 2000 the applicant submitted two requests to the CNSAS: one to be allowed access to the intelligence file on him and the other seeking to ascertain whether or not the members of the Synod of the Romanian Orthodox Church had collaborated with the *Securitate*. He received no reply. In 2001 the applicant organised a press conference to voice his concern about the effectiveness of the remedy afforded by the 1999 Law and in particular his suspicions regarding the links to the former regime of A.P., a member of the college of the CNSAS. The applicant made reference, among other things, to some of A.P.'s past activities. His remarks received widespread media coverage. A.P. made a criminal complaint against the applicant, accusing him of insult and defamation. In a judgment of July 2001 the Bucharest District Court acquitted the applicant on the ground that the substantive and intentional elements of the offences had not been made out. The court observed that the value judgments expressed by the applicant, which were not insulting, had not overstepped the limits of acceptable criticism of public figures, that they had been made in the context of a particularly intense debate on a matter of public interest and that the applicant had merely voiced suspicions in all good faith. When A.P. appealed to the Bucharest County Court on points of law, the court heard the pleadings of counsel for the applicant and his opponent but did not hear any evidence from the applicant, who was present at the hearing. In a judgment of 29 October 2001 the applicant was ordered to pay a criminal fine of 5,000,000 Romanian

lei (ROL) together with ROL 50,000,000 in compensation for non-pecuniary damage. The court ruled that the applicant had not succeeded in demonstrating the truth of his assertion that A.P. had collaborated with the *Securitate*; a certificate issued by the CNSAS on 12 June 2001 stated that A.P. had not collaborated. No reference was made to the findings of the first-instance court in favour of the applicant's acquittal.

The applicant complained about his conviction for defamation in criminal and civil proceedings as a result of the remarks he had made at a press conference on the subject of the remedy afforded by Law no. 187/1999. He also complained that the appellate court had found him guilty without hearing evidence from him, after he had been acquitted by the first-instance court.

Article 6 § 1

The Court noted that the County Court, acting with full jurisdiction, had gone beyond a fresh interpretation as to the law and had reviewed the facts of the case, re-examining the existence of the essential elements of the offence of defamation. After overturning the first-instance judgment acquitting the applicant, it had found the latter guilty of defamation without hearing evidence from him in person, despite the fact that he had been present at the hearing. In the circumstances, the Court considered that the appellate court had been required to hear evidence from the applicant, even in the absence of an express request from him, or to at least afford him the opportunity of adding to the conclusions of his counsel, particularly since he had displayed an interest in the trial from the outset. Accordingly, in view of the applicant's conviction without evidence being taken from him in person and especially after he had been acquitted at first instance, the Court held that there had been a violation of Article 6 § 1.

Article 10

The Court noted that the interference by the authorities with the applicant's freedom of expression had been prescribed by law and had pursued the legitimate aim of protecting A.P.'s reputation. The applicant's speech had been made in the specific context of a nationwide debate on a particularly sensitive topic of general interest, namely the application of the law concerning citizens' access to the personal files kept on them by the *Securitate*, enacted with the aim of unmasking that organisation's nature as a political police force, and on the subject of the ineffectiveness of the CNSAS's activities. In that context, it had been legitimate to discuss whether the members of that organisation satisfied the criteria required by law for holding such a position. The applicant's remarks had been a mix of value judgments and factual elements. The applicant had alerted his audience to the fact that he was voicing suspicions rather than certainties; the Court noted that those suspicions had been supported by references to A.P.'s conduct and to undisputed facts such as his membership of the transcendental meditation movement and the modus operandi of *Securitate* agents. The applicant had acted in good faith in an attempt to inform the public. In participating in the criminal proceedings against him and providing evidence the applicant had reaffirmed his good faith. Furthermore, the remarks had been made orally at a press conference, giving the applicant no opportunity of rephrasing, refining or withdrawing them. Lastly, the County Court had paid no attention to the context in which the remarks in question had been made, the interests at stake or the fact that the applicant had been acquitted at first instance. It had not given "relevant and sufficient" reasons for concluding that the applicant had damaged A.P.'s reputation and for convicting him. Furthermore, the Court noted that the particularly high level of damages – representing more than 15 times the average salary in Romania at the relevant time – could be considered as a measure apt to deter the media and opinion leaders from fulfilling their role of informing the public on matters of general interest. As the interference with the applicant's freedom of expression had not been justified by relevant and sufficient reasons, the Court held that there had been a violation of Article 10.

Gül and Others v. Turkey (no. 4870/02) (Importance 3) – 8 June 2010 – Violation of Article 10 – Conviction of the applicants for shouting slogans during lawful and non-violent demonstrations

In November 1999, the applicants were arrested by police officers from the Anti-Terrorist Branch of the Ankara Police Headquarters. The public prosecutor informed the applicants' representatives that under the relevant provisions of criminal law the applicants were not entitled to legal assistance during police custody. Three days later the prosecutor of the Ankara State Security Court questioned the applicants about their alleged affiliation with an armed illegal organisation, the TKP/ML, which they all denied. All four applicants contended that they had participated in demonstrations, and two of them stated they had done so as members of a trade union. Three weeks later the prosecutor of the Ankara State Security Court charged Ms Delikurt with membership of an illegal organisation and the other applicants with aiding and abetting members of an illegal organisation under the relevant provision of the Criminal Code in force at the time. The prosecutor alleged in particular that the applicants had shouted slogans in support of the illegal organisation in question or other illegal slogans at

demonstrations and that several publications in support of the organisation had been found in their apartments. The applicants were convicted of aiding and abetting members of an illegal organisation and sentenced to three years and nine months imprisonment in a judgment upheld by the court of cassation in April 2001. Following an amendment of the Criminal Code in August 2003 the case was reopened. In June 2004 the State Security Courts in Turkey were abolished and the case was subsequently transferred to the Assize Court. In July 2004, that court decided not to convict Ms Delikurt, allowing her request under a new amnesty law, and she was consequently released from prison. The other three applicants were sentenced to ten months imprisonment for disseminating propaganda related to an illegal armed organisation under the Prevention of Terrorism Act. Two of the applicants appealed and the proceedings are currently still pending.

The applicants complained in particular of their conviction for reading certain periodicals, participating in demonstrations and shouting slogans. They further complained that they were deprived of legal assistance during their police custody.

The Court considered that the applicants' complaints had to be examined exclusively under Article 10. It noted that there had been an interference with the applicants' freedom of expression, by which the authorities had pursued the legitimate aim of protecting national security and public order in accordance with the former Criminal Code and with the Prevention of Terrorism Act. As to the question whether the interference had been proportionate to this aim, the Court observed that the applicants had shouted the slogans in question during lawful, non-violent demonstrations. Although, taken literally, some of the phrases, such as "Political power grows out of the barrel of the gun", had a violent tone, they were stereotyped slogans which could not be interpreted as a call for violence or an uprising. The Court reiterated that in a pluralist democratic society, tolerance was required also of ideas that offended or shocked. Given that the applicants had not advocated violence, injury or harm to any person, it found that the initial prison sentence and the lengthy criminal proceedings had been disproportionate. The applicants' conduct could further not be considered to have had an impact on national security or public order. In the light of these findings, the Court concluded, by five votes to two, that there had been a violation of Article 10.

Turgay and Others v. Turkey (nos. 8306/08, 8340/08 and 8366/08) (Importance 3) – 15 June 2010 – Violation of Article 10 – Domestic courts' unjustified restriction of the essential role of the press as a public watchdog in a democratic society on account of the suspension of the publication and distribution of two newspapers, which amounted to censorship

The applicants are 12 Turkish nationals, who, at the relevant time, were the owners, executive directors, editors-in-chief, news directors and journalists of two weekly newspapers published in Turkey: *Yedinci Gün* and *Toplumsal Demokrasi*. The publication of those newspapers was suspended for a month in January 2008 on the basis of a law for the prevention of terrorism. The applicants were criminally prosecuted for disseminating terrorist-aligned propaganda; the proceedings in their cases are still pending at first instance.

The applicants complained about the suspension of the publication and distribution of the newspapers concerned, which they claimed amounted to censorship. Further the applicants complained about the unfairness of the proceedings before the first instance court.

The Court first noted that it had recently examined an identical complaint, in the case of *Ürper and Others v. Turkey*, in which it had found a violation of Article 10. It then saw no particular circumstances in the present case requiring it to depart from the previously drawn conclusions. The Court observed that the suspension of the publication and distribution had not been imposed on concrete news reports or articles, but on the future publication of entire newspapers, whose content had been unknown at the time of the national court's decision. Therefore, the Court concluded that the preventive effect sought with that suspension had resulted in implicit sanctions on the applicants to dissuade them from publishing similar articles in the future and thus hinder their professional activities. The Court found that less draconian measures could have been envisaged, such as the confiscation of particular issues of the newspapers or the restriction on the publication of specific articles. Consequently, by suspending the publication and distribution of the newspapers, even for a short period of time, the domestic courts had unjustifiably restricted the essential role of the press as a public watchdog in a democratic society. In addition, the practice of banning the future publication of entire periodicals on the basis of domestic law had gone beyond any notion of "necessary" restraint in a democratic society and, instead, had amounted to censorship. Accordingly, there had been a violation of Article 10.

- **Disappearances cases in Chechnya and Ingushetia**

Ilyasova v. Russia (no. 26966/06) (Importance 3) – 10 June 2010 – Violations of Article 2 (substantive and procedural) – Abduction and presumed death of the applicant's sons, Magomed-Salekh and Magomed-Ali Ilyasov – Lack of an effective investigation – Violation of Article 3 – The applicant's mental suffering – Violation of Article 5 – Unacknowledged detention of the applicant's two sons – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Vakayeva and Others v. Russia (no. 2220/05) (Importance 3) – 10 June 2010 – Violations of Article 2 (substantive and procedural) – Abduction and presumed death of the applicants' relatives Salambek Tatayev, Ramzan Dudayev, Yunus Abdurazakov, Shamil Vakayev, Shamkhan Vakayev and Shamsudi Vakayev – Lack of an effective investigation – Violation of Article 3 – The applicants' mental suffering – Violation of Article 5 – Unacknowledged detention of the applicants' relatives – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Batayev and Others v. Russia (nos. 11354/05 and 32952/06) (Importance 3) – 17 June 2010 – Violations of Article 2 (substantive and procedural) – Abduction and presumed death of the applicants' seven relatives – Lack of an effective investigation – Violation of Article 3 – The applicants' mental suffering – Violation of Article 5 – Unacknowledged detention of the applicants' relatives – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Tovsultanova v. Russia (no. 26974/06) (Importance 3) – 17 June 2010 – No violation of Article 2 (substantive) – The Court considered that it couldn't establish "beyond reasonable doubt" that the applicant's son, Said-Magamed Tovsultanov, was deprived of his life by State agents – Violation of Article 2 (procedural) – Lack of an effective investigation

2. Judgments referring to the NHRSs

Rantsev v. Cyprus and Russia (no. 25965/04) (Importance 1) – 7 January 2010 – No violation of Article 2 (positive obligation) by Cyprus – The applicant's daughter's death could not have been foreseen by the police officers – Violation of Article 2 (procedural) by Cyprus – Cypriot authorities' failure to conduct an effective investigation into the applicant's daughter's death – No violation of Article 2 (procedural) by Russia – Russian authorities' extensive use of opportunities presented by mutual legal assistance agreements to press for action by the Cypriot authorities – Violations of Article 4 (positive obligation) by Cyprus – Lack of an appropriate legal and administrative framework to combat human trafficking due to the existing regime of "artiste" visas – Police authorities' failure to take operational measures to protect the applicant's daughter – No violation of Article 4 (positive obligation to take protective measures) by Russia – Violation of Article 4 (procedural) by Russia – Russian authorities' failure to investigate the circumstances of the alleged trafficking – Violation of Article 5 by Cyprus – The applicant's daughter's unlawful and arbitrary detention at the police station and subsequent detention at the apartment where she was taken after being consigned in M.A.'s custody by the police officers

The applicant is the father of Ms Oxana Rantseva, who died in strange and un-established circumstances having fallen from a window of a private home in Cyprus in March 2001. Ms Rantseva arrived in Cyprus on 5 March 2001 on an "artiste" visa. She started work on 16 March 2001 as an artiste in a cabaret in Cyprus only to abandon her place of work and residence three days later leaving a note saying that she was going back to Russia. After finding her in a discotheque in Limassol at around 4 a.m. on 28 March 2001, the manager of the cabaret where she had worked took her to the police asking them to declare her illegal in the country and to detain her, apparently with a view to expel her so that he could have her replaced in his cabaret. The police, after checking their database, concluded that Ms Rantseva did not appear to be illegal and refused to detain her. They asked the cabaret manager to collect her from the police station and to return with her later that morning to make further inquiries into her immigration status. The cabaret manager collected Ms Rantseva at around 5.20 a.m. Ms Rantseva was taken by the cabaret manager to the house of another employee of the cabaret, where she was taken to a room on the sixth floor of the apartment block. The cabaret manager remained in the apartment. At about 6.30 a.m. on 28 March 2001 Ms Rantseva was found dead in the street below the apartment. A bedspread was found looped through the railing of the apartment's balcony. Following Ms Rantseva's death, those present in the apartment were interviewed. A neighbour who had seen Ms Rantseva's body fall to the ground was also interviewed, as were the police officers on duty at Limassol police station earlier that morning when the cabaret manager had brought Ms Rantseva from the discotheque. An autopsy was carried out which concluded that Ms Rantseva's injuries were the result of her fall and that the fall was the cause of her death. The applicant subsequently visited the police station in Limassol and requested to participate in the inquest proceedings. An inquest hearing was finally held on 27 December 2001 in the applicant's

absence. The court decided that Ms Rantseva died in strange circumstances resembling an accident, in an attempt to escape from the apartment in which she was a guest, but that there was no evidence to suggest criminal liability for her death. Upon a request by Ms Rantseva's father, after the body was repatriated from Cyprus to Russia, forensic medical experts in Russia carried out a separate autopsy. In their findings, the Russian authorities concluded that Ms Rantseva had died in strange and un-established circumstances requiring additional investigation and forwarded the findings to the Cypriot authorities in the form of a request for mutual legal assistance under treaties in which Cyprus and Russia were parties. The request asked, inter alia, that further investigation be carried out, that the institution of criminal proceedings in respect of Ms Rantseva's death be considered, and that the applicant be allowed to participate effectively in the proceedings. In October 2006, Cyprus confirmed to the Russian Prosecution Service that the inquest into Ms Rantseva's death was completed on 27 December 2001 and that the verdict delivered by the court was final. The applicant has continued to press for an effective investigation into his daughter's death. The Cypriot Ombudsman, the Council of Europe's Human Rights Commissioner and the United States State Department have published reports which refer to the prevalence of trafficking in human beings for commercial sexual exploitation in Cyprus and the role of the cabaret industry and "artiste" visas in facilitating trafficking in Cyprus.

In November 2003, the Cypriot Ombudsman published an *ex Officio* report on the regime regarding entry and employment of alien women as artistes in entertainment places in Cyprus. She explained the reasons for her report: *"Given the circumstances under which [Oxana] Rantseva had lost her life and in the light of similar cases which have been brought into publicity regarding violence or demises of alien women who arrives in Cyprus to work as 'artistes', I have decided to undertake an* ex officio *investigation ..."* The Ombudsman's report considered the history of the employment of young foreign women as cabaret artistes, noting that the word "artiste" in Cyprus has become synonymous with "prostitute". Her report explained that since the mid-1970s, thousands of young women had legally entered Cyprus to work as artistes but had in fact worked as prostitutes in one of the many cabarets in Cyprus. Since the beginning of the 1980s, efforts had been made by the authorities to introduce a stricter regime in order to guarantee effective immigration monitoring and to limit the "well-known and commonly acknowledged phenomenon of women who arrived in Cyprus to work as artistes". However, a number of the measures proposed had not been implemented due to objections from cabaret managers and artistic agents. The Ombudsman's report noted that in the 1990s, the prostitution market in Cyprus started to be served by women coming mainly from former States of the Soviet Union. The Ombudsman observed that the police received few complaints from trafficking victims. She further noted that protection measures for victims who had filed complaints were insufficient. Although they were permitted to work elsewhere, they were required to continue working in similar employment. They could therefore be easily located by their former employers. Although she considered the existing legislative framework to combat trafficking and sexual exploitation satisfactory, she noted that no practical measures had been taken to implement the policies outlined, observing that: *"...The various departments and services dealing with this problem, are often unaware of the matter and have not been properly trained or ignore those obligations enshrined in the Law ..."*

Mr Rantsev complained about the investigation into the circumstances of the death of his daughter, about the failure of the Cypriot police to take measures to protect her while she was still alive and about the failure of the Cypriot authorities to take steps to punish those responsible for her death and ill-treatment. He also complained about the failure of the Russian authorities to investigate his daughter's alleged trafficking and subsequent death and to take steps to protect her from the risk of trafficking. Finally, he complained about the inquest proceedings and an alleged lack of access to a court in Cyprus.

Unilateral declaration by Cyprus

The Cypriot authorities made a unilateral declaration acknowledging that they had violated Articles 2, 3, 4, 5 and 6 of the Convention, offering to pay pecuniary and non-pecuniary damages to the applicant, and advising that on 5 February 2009 three independent experts had been appointed to investigate the circumstances of Ms Rantseva's death, employment and stay in Cyprus and the possible commission of any unlawful act against her. The Court reiterated that as well as deciding on the particular case before it, its judgments served to elucidate, safeguard and develop the rules instituted by the Convention. It also emphasised its scarce case law on the question of the interpretation and application of Article 4 to trafficking in human beings. It concluded that, in light of the above and the serious nature of the allegations of trafficking in this case, respect for human rights in general required it to continue its examination of the case, notwithstanding the unilateral declaration of the Cypriot Government. *"291. […] as regards the general legal and administrative framework and the adequacy of Cypriot immigration policy, a number of weaknesses can be identified. The Council of Europe Commissioner for Human Rights noted in his 2003 report that the absence of an immigration policy and legislative shortcomings in this respect have encouraged the trafficking of women to Cyprus. He called for preventive control measures to be adopted to stem the flow of young women entering Cyprus to work as cabaret artistes. In subsequent reports, the Commissioner reiterated his*

concerns regarding the legislative framework, and in particular criticised the system whereby cabaret managers were required to make the application for an entry permit for the artiste as rendering the artiste dependent on her employer or agent and increasing her risk of falling into the hands of traffickers. In his 2008 report, the Commissioner criticised the artiste visa regime as making it very difficult for law enforcement authorities to take the necessary steps to combat trafficking, noting that the artiste permit could be perceived as contradicting the measures taken against trafficking or at least as rendering them ineffective. The Commissioner expressed regret that, despite concerns raised in previous reports and the Government's commitment to abolish it, the artiste work permit was still in place. Similarly, the Ombudsman, in her 2003 report, blamed the artiste visa regime for the entry of thousands of young foreign women into Cyprus, where they were exploited by their employers under cruel living and working conditions." (See also Commissioner' reports published in 2006 and 2008)

Admissibility

The Court did not accept the Russian Government's submission that they had no jurisdiction over, and hence no responsibility for, the events to which the application pertained as it found that if trafficking occurred it had started in Russia and that a complaint existed against Russia's failure to investigate properly the events which occurred on Russian territory. It declared the applicant's complaints under Articles 2, 3, 4 and 5 admissible.

Right to life

As regards Cyprus, the Court considered that the chain of events leading to Ms Rantseva's death could not have been foreseen by the Cypriot authorities and, in the circumstances, they had therefore no obligation to take practical measures to prevent a risk to her life. However, a number of flaws had occurred in the investigation carried out by the Cypriot authorities: there had been conflicting testimonies which had not been resolved; no steps to clarify the strange circumstances of Ms Rantseva's death had been made after the verdict of the court in the inquest proceedings; the applicant had not been advised of the date of the inquest and as a result had been absent from the hearing when the verdict had been handed down; and although the facts had occurred in 2001 there had not yet been a clear explanation as to what had happened. There had therefore been a violation of Article 2 as a result of the failure of the Cypriot authorities to investigate effectively Ms Rantseva's death. As regards Russia, the Court concluded that it had not violated Article 2 as the Russian authorities were not obliged themselves to investigate Ms Rantseva's death, which had occurred outside their jurisdiction. The Court emphasised that the Russian authorities had requested several times that Cyprus carry out additional investigation and had cooperated with the Cypriot authorities.

Freedom from ill-treatment

The Court held that any ill-treatment which Ms Rantseva may have suffered before her death had been inherently linked to her alleged trafficking and exploitation and that it would consider this complaint under Article 4.

Failure to protect from trafficking

Two non-governmental organisations, Interights and the AIRE Centre, made submissions before the Court arguing that the modern day definition of slavery included situations such as the one arising in the present case, in which the victim was subjected to violence and coercion giving the perpetrator total control over the victim.

The Court noted that, like slavery, trafficking in human beings, by its very nature and aim of exploitation, was based on the exercise of powers attaching to the right of ownership; it treated human beings as commodities to be bought and sold and put to forced labour; it implied close surveillance of the activities of victims, whose movements were often circumscribed; and it involved the use of violence and threats against victims. Accordingly the Court held that trafficking itself was prohibited by Article 4. It concluded that there had been a violation by Cyprus of its positive obligations arising under that Article on two counts: first, its failure to put in place an appropriate legal and administrative framework to combat trafficking as a result of the existing regime of "artiste" visas, and second, the failure of the police to take operational measures to protect Ms Rantseva from trafficking, despite circumstances which had given rise to a credible suspicion that she might have been a victim of trafficking. In light of its findings as to the inadequacy of the Cypriot police investigation under Article 2, the Court did not consider it necessary to examine the effectiveness of the police investigation separately under Article 4. There had also been a violation of this Article by Russia on account of its failure to investigate how and where Ms Rantseva had been recruited and, in particular, to take steps to identify those involved in Ms Rantseva's recruitment or the methods of recruitment used.

Deprivation of liberty

The Court found that the detention of Ms Rantseva for about an hour at the police station and her subsequent confinement to the private apartment, also for about an hour, did engage the responsibility

of Cyprus. It held that the detention by the police of Ms Rantseva following the confirmation that she was not illegal had no basis in domestic law. It further held that her subsequent detention in the apartment had been both arbitrary and unlawful. There was therefore a violation of Article 5 § 1 by Cyprus.

Frasik v. Poland (no 22933/02) and Jaremowicz v. Poland (no 24023/03) (Importance 1) – 5 January 2010 – Violations of Articles 12 and 13 – Domestic courts' refusal to allow prison inmates to marry their respective partners and lack of an effective remedy – Violation of Article 5 § 4 – Appeal against the decision prolonging the detention lodged after the expiration of contested decision (1st case)

The applicants were both serving prison sentences - Mr Frasik for rape and for uttering threats to his long-term partner I.K., and Mr Jaremowicz for attempted burglary - when they asked, in April 2001 and June 2003 respectively, the competent courts to allow them to marry in prison. Their requests were refused. Mr Frasik was detained in September 2000 following a complaint by I.K. who submitted that he had raped and battered her. A few months later, both he and I.K. asked several times, unsuccessfully, the prosecutor that Mr Frasik be released under police supervision as they had been reconciled as a couple and wanted to marry and live together. In July 2001, the trial court refused Mr Frasik's request to marry I.K. in prison and sentenced him, in November 2001, to a term in prison for rape and uttering threats. Following his cassation appeal, the Supreme Court held in a judgment in 2003 that although the refusal to let Mr Frasik marry in prison clearly violated Article 12 of the Convention, it did not have an effect on his conviction and therefore could not be quashed.

Mr Jaremowicz asked in June 2003 the competent regional court a permission to marry in prison M.H. The court refused on the grounds that they had become "acquainted illegally in prison" and in any event their relationship had represented nothing but "a very superficial and unworthy contact" given that they had mostly communicated by means of sending kites and writing messages on their hands, often without seeing each other. The applicant also complained to, and sought assistance from, the Ombudsman. In July 2003 the Ombudsman informed the Governor of Wrocław Prison of the applicant's complaint and asked him to consider the possibility of granting him visits from his fiancée who was apparently his only close person. In August 2003 the Governor informed the Ombudsman that the principal ground for refusal to grant the applicant visits from M.H. and leave to marry her in prison was the fact that they could not prove that they had had a relationship before her detention in the same prison which "made his attempts to obtain the leave 'premature'." The Ombudsman wrote back to the Governor, stating that he had reservations about the grounds for the refusal of leave to marry and asking him to conduct an enquiry into the applicant's allegations and to reconsider the possibility of granting him visits from M.H. In September 2003 the prison authorities prepared a report on the enquiry which was later transmitted to the Ombudsman. In 25 September 2003 the Ombudsman replied to the applicant's complaint. The letter reads, in so far as relevant, as follows: "*I would like to inform you that, as unequivocally emerges from the findings relating to your wish to get married to M.H. in prison, your relationship with Ms M[...] H [...] developed in an illegal manner during her detention on remand in the prison in which you remain. It was precisely your illegal relationship maintained by means of, among other things, sending kites (za pomocą grypsów) in prison which, in the opinion of the prison administration, was decisive [for considering] your union unworthy from the point of view of your social rehabilitation. At the same time, I would like to add that, as emerges from the information I have received, this matter is at present being examined by the Wrocław Regional Court, from which you should get a reply. In view of the foregoing, acting upon the Ombudsman's authorisation, I consider the matter as clarified in its entirety and I do not see any indication of your rights having been infringed by the [prison] administration.*"

In November 2003 the prison governor issued a certificate addressed to the civil status office confirming that Mr Jaremowicz had obtained leave to marry M.H. in prison.

Both applicants complained that the refusals to marry were arbitrary and unjustified. Mr Frasik also complained about having been detained for too long awaiting trial and about his appeals against that detention not having been examined quickly.

Right to marry

The Court first noted that the exercise of the right to marry was not conditioned upon whether a person was free or in prison. While imprisonment deprived people of their liberty and certain civil rights and privileges that did not mean that those detained could not marry. As provided for in the European Prison Rules, restrictions placed on persons in detention had to be the minimum necessary and proportionate to the legitimate objective for which they had been imposed. It considered that the Polish authorities had not justified their refusal to allow the applicants to marry with considerations such as existing danger to security in prison or the prevention of crime and disorder. Instead, their assessment had been limited to the nature and quality of the applicants' relationships both of which had been

found by the authorities unsuitable for marriage. The Court emphasised in this respect that the choice of partner and the decision to marry them, at liberty and in detention alike, was a strictly private and personal matter. Except for overriding security considerations the authorities were not allowed, under Article 12, to interfere with a prisoner's decision to marry with a person of their choice, especially - as had been the situation in the present cases - on the grounds that the relationships were not acceptable to the authorities and deviated from prevailing social conventions and norms. The Court did not accept the argument of the Polish Government that Mr Fraski had been at liberty to marry after his release and that Mr that Jaremowicz had been allowed to marry five months after he had asked the authorities, or that he too could have married after his release. It emphasised that a delay imposed before entering into a marriage to persons of full age and otherwise fulfilling the conditions for marriage under the national law, could not be considered justified under Article 12. The refusals had resulted in impairing the very essence of the applicants' right to marry, and there had, therefore, been a violation of that Article in both cases.

Right to an effective remedy

As regards the case of Mr Frasik, the Government had admitted that there had been no procedure through which the applicant could challenge effectively the decision denying him his right to marry in detention. In respect of Mr Jaremowicz, although he could and had indeed challenged the initial refusal by the prison authorities before the penitentiary court, the procedure had lasted for nearly five months without a decision being given and, consequently, it had had no meaningful effect. The belated permission Mr Jaremowicz had been granted had not offered the redress required by Article 13 either. The Court concluded that there had been a violation of this Article in both cases.

Detention

The Court further noted that Mr Frasik's appeal against the decision prolonging his detention had been examined by the domestic court 46 days after it had been lodged and 11 days after the contested decision had expired, thus having rendered its examination purposeless. This delayed examination could not be considered sufficiently speedy as required by Article 5 § 4 and therefore there had been a violation of that Article.

Cudak v. Lithuania (link to the judgment in French) (no. 15869/02) (Importance 1) – 23 March 2010 – Violation of Article 6 § 1 – Domestic authorities' interference with the applicant's right of access to a court on account of their refusal to hear a sexual harassment complaint by the applicant, an employee of the Polish embassy in Vilnius, by applying the State immunity rule

In 1997, the applicant was hired as a secretary and switchboard operator by the Embassy of the Republic of Poland in Vilnius. Her duties corresponded to those habitually expected of such a post, and were stipulated in her employment contract. In 1999, the applicant complained to the Lithuanian Equal Opportunities Ombudsperson that she was being sexually harassed by one of her male colleagues as a result of which she had fallen ill. The Ombudsperson held an inquiry and recognised that she was indeed a victim of sexual harassment. The applicant, on sick leave for two months, was not allowed to enter the building upon her return in October 1999, and on two other occasions in the weeks that followed. She complained in writing to the ambassador and a few days later, in December 1999, was informed that she had been dismissed for failure to come to work during the last week of November 1999. She brought an action for unfair dismissal before the civil courts, which declined jurisdiction on the basis of the doctrine of State immunity from jurisdiction, invoked by the Polish Ministry of Foreign Affairs, and according to which one State could not be subject to the jurisdiction of another. The Lithuanian Supreme Court found in particular that the applicant had exercised a public-service function during her employment with the Polish Embassy in Vilnius and established that, merely from the title of her position, it could be concluded that her duties facilitated the exercise by the Republic of Poland of its sovereign functions and, therefore, justified the application of the State immunity rule. The applicant lodged her application with the Court in December 2001 and in January 2009 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

The applicant alleged that she was denied access to a court.

The Court first noted that there was a trend in international law, confirmed with the adoption at the United Nations level of two international legal documents – the 1991 Draft Articles and the 2004 Convention on Jurisdictional Immunities of States and their Property – towards limiting the application of State immunity, notably by exempting contracts of staff employed in a State's diplomatic missions abroad from the immunity rule. Immunity still applied, however, to diplomatic and consular staff in cases where the subject of the dispute was the recruitment, renewal of employment or reinstatement of an individual, or where the employee was a national of the employer State, or there was a written agreement to that effect between the employer and the employee. The applicant had not been

covered by any of those exceptions. She had not performed any particular functions closely related to the exercise of governmental authority. She had not been a diplomatic agent or consular officer, nor a national of the employer State, and, lastly, the subject matter of the dispute had had to do with the applicant's dismissal. In addition, it did not appear from the file that the applicant had performed in reality any functions related to the exercise of sovereignty by the Polish State and neither the Lithuanian Supreme Court nor the Government had shown how her ordinary duties could have objectively related to the sovereign interests of the Polish State.

The mere allegation that the applicant could have had access to certain documents or could have been privy to confidential telephone conversations in the course of her duties was not sufficient. Her dismissal and the ensuing legal proceedings had arisen originally from acts of sexual harassment that had been established by the Lithuanian Equal Opportunities Ombudsperson. Such acts could hardly be regarded as undermining Poland's security interests. By declining jurisdiction to hear the applicant's claim and accepting the Polish Government argument of State immunity, the Lithuanian courts' decisions had impaired the very essence of the applicant's right of access to a court in violation of Article 6 § 1.

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 a more complete information, please refer to the following link:

- Press release by the Registrar concerning the Chamber judgments issued on 08 Jun. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 10 Jun. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 15 Jun. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 17 Jun. 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
Bulgaria	10 Jun. 2010	Filipov (no. 40495/04) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length) Violation of Art. 13	Excessive length of pre-trial detention Excessive length of proceedings Lack of an effective remedy in respect of the length of proceedings	Link
Bulgaria	10 Jun. 2010	Marinova (no. 29972/02) Imp. 2	No violation of Art. 2	Domestic authorities' thorough investigation of the circumstances surrounding the applicant's daughter's death	Link
Bulgaria	10 Jun. 2010	Sabeva (no. 44290/07) Imp. 3	No violation of Art. 3 No violation of Art. 5 §§ 1, 4 and 5	The applicant's conditions of detention could not be classified as inhuman or degrading Lawful deprivation of liberty, no evidence to establish the alleged impossibility to bring proceedings challenging the continued lawfulness of her confinement	Link
Greece	10 Jun. 2010	Peca (No. 2) (no. 33067/08) Imp. 3	Violation of Art. 6 § 1	Disproportionate restriction on the applicant's right of access to the Cassation Court	Link
Greece	10 Jun. 2010	Tritsis (no. 3127/08) Imp. 3	Violations of Art. 6 § 1	Excessive length of proceedings Disproportionate restriction on the applicant's right of access to the *Conseil d'Etat*	Link
Hungary	08 Jun. 2010	Medgyes and Rusz (no. 14308/07) Imp. 3	Violation of Art. 6 § 1	Excessive length of criminal proceedings for fraud and forgery (thirteen years and eleven months for two levels of jurisdiction)	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

Poland	08 Jun. 2010	Górny (no. 50399/07) Imp. 3	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3	Unfairness of lustration proceedings on account of document confidentiality and limitations on the applicant's access to the case file	Link
Poland	08 Jun. 2010	Gradek (no. 39631/06) Imp. 3	Violation of Art. 8	Unreasoned refusal of family visits during the applicant's detention	Link
Poland	08 Jun. 2010	Kumenda (no. 2369/09) Imp. 3	Violation of Art. 5 §§ 1 and 3	Domestic authorities' lengthy delay in admitting the applicant to a psychiatric hospital, who was held in an ordinary detention centre despite being mentally ill; excessive length of pre-trial detention	Link
Poland	08 Jun. 2010	Wojciech Nowak (no. 11118/06) Imp. 3	No violation of Art. 8	The domestic authorities took all the necessary steps to facilitate the enforcement of the contact arrangements between the applicant and his son	Link
Poland	15 Jun. 2010	Pardus (no. 13401/03) Imp. 3	Violation of Art. 6 § 1	Excessive length of civil proceedings	Link
Portugal	08 Jun. 2010	Avellar Cordeiro Zagallo (no. 30844/05) Imp. 3	Just satisfaction	Determination of the compensation following a judgment of 13 January 2009	Link
Romania	15 Jun. 2010	Creangă (no. 29226/03) Imp. 3	Two violations of Art. 5 § 1 No violation of Art. 5 § 1	Unlawful detention concerning two periods of detention Sufficient reasons to justify the applicant's detention during the investigation stage	Link
Russia	10 Jun. 2010	Mukhutdinov (no. 13173/02) Imp. 3	Violation of Art. 3 Two violations of Art. 6 § 1	Conditions of detention Unfairness of proceedings on account of domestic authorities' failure to provide the applicant with a proper opportunity to familiarise himself with the content of the Deputy Prosecutor's supervisory review request, to comment on the points raised in this request and was to be notified of the date and location of the supervisory-review hearing Domestic courts' failure to ensure the effective representation of the applicant's interests in civil proceedings	Link
Russia	10 Jun. 2010	Ponomarev (no. 35411/05) Imp. 3	Violation of Art. 5 § 1	Unlawfulness of detention	Link
Russia	10 Jun. 2010	Sharkunov and Mezentsev (no. 75330/01) Imp. 2	No violation of Art. 3 Violation of Art. 6 §§ 1 and 3 (second applicant)	Effective investigation into the alleged ill-treatment Unfairness of criminal proceedings on account of the impossibility to examine or have examined a witness in connection with the arson-related charges	Link
Russia	10 Jun. 2010	Shenoyev (no. 2563/06) Imp. 2	Violation of Art. 5 § 3 Violation of Art. 6 § 1	Excessive length of pre-trial detention Excessive length of criminal proceedings	Link
Russia	17 Jun. 2010	Gubin (no. 8217/04) Imp. 3	Violation of Art. 3 Violation of Art. 13 Violation of Art. 5 § 4	Conditions of detention in remand prison no. 77/1 in Moscow Lack of an effective remedy Domestic courts' failure to carry out a review of the lawfulness of the applicant's detention	Link
Russia	17 Jun. 2010	Logvinenko (no. 44511/04) Imp. 2	Violation of Art. 5 §§ 1 and 3	Unlawfulness and excessive length of detention	Link
Russia	17 Jun.	Ovchinnikov (no. 9807/02)	Violation of Art. 3	Poor conditions of detention	Link

	2010	Imp. 3			
Russia	17 Jun. 2010	Roslov (no. 40616/02) Imp. 3	No violation of Art. 6 § 1	The substantial delays in the proceedings had been attributable to the applicant	Link
Russia	17 Jun. 2010	Shcherbakov (no. 23939/02) Imp. 3	Violation of Art. 3	Conditions of his detention in Tula IZ-71/1 remand centre	Link
Russia	17 Jun. 2010	Shulenkov (no. 38031/04) Imp. 3	Violation of Art. 5 § 1 Two violations of Art. 5 § 4	Unlawfulness of detention The applicant's deprivation of an effective review of the lawfulness of his continued detention Domestic authorities' failure to secure the examination of a validly lodged appeal against an order extending the applicant's detention	Link
Serbia	08 Jun. 2010	Motion Pictures Guarantors Ltd (no. 28353/06) Imp. 3	Violation of Art. 6 § 1	Domestic authorities' failure to hold a public, adversarial hearing in proceedings concerning the applicant company's request for procedural reinstatement	Link
Sweden	08 Jun. 2010	Dolhamre (no. 67/04) Imp. 3	No violation of Art. 8	The imposed access restrictions on the applicants to see their children were taken to protect the best interest of the fourth and fifth applicants and were proportionate to the legitimate aim pursued	Link
Switzerland	10 Jun. 2010	Borer (no. 22493/06) Imp. 2	Violation of Art. 5 § 1	Unlawfulness of detention	Link
"the former Yugoslav Republic of Macedonia"	10 Jun. 2010	Demerdžieva and Others (no. 19315/06) Imp. 2	Violation of Art. 6 § 1	Infringement of the right of access to a court on account of Supreme Court's rejection of the applicants' appeal on points of law	Link
"the former Yugoslav Republic of Macedonia"	10 Jun. 2010	Spasovski (no. 45150/05) Imp. 3	Violation of Art. 6 § 1	Infringement of the right of access to a court as a result of the conflicting positions taken by the domestic courts, thus preventing the applicant from having the merits of his claim determined by a court	Link
the United Kingdom	15 Jun. 2010	S.H. v. (no. 19956/06) Imp. 3	Violation of Art. 3	Risk of being subjected to ill-treatment if expelled to Nepal	Link
Turkey	08 Jun. 2010	Alkes (No. 2) (no. 16047/04) Imp. 3	No violation of Art. 6	The applicant was able to submit his arguments to the courts that had already addressed those arguments in decisions which were duly reasoned and disclosed no elements of arbitrariness concerning the applicant's request to benefit from conditional release	Link
Turkey	08 Jun. 2010	Karaman (no. 6489/03) Imp. 3	Just satisfaction	Determination of the compensation following a judgment of 15 January 2008	Link
Turkey	08 Jun. 2010	Wolf-Sorg (no. 6458/03) Imp. 3	No violation of Art. 2 (substantive) Violation of Art. 2 (procedural)	Lack of evidence to conclude the State's responsibility into the applicant's daughter's death Lack of an effective investigation	Link
Turkey	15 Jun. 2010	Ahmadpour (no. 12717/08) Imp. 3	Violation of Art. 3 Violation of Art. 5 § 1	Risk of being subjected to ill-treatment if expelled to Iran Unlawfulness of detention	Link
Turkey	15 Jun. 2010	Fener Rum Patrikliği (Ecumenical Patriarchate) (no. 14340/05) Imp. 3	Just satisfaction	Determination of the compensation following a judgment of 8 July 2008	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
Portugal	08 Jun. 2010	Lopes Fernandes (no. 29378/06) link	Violation of Art. 1 of Prot. 1	Delay in calculating and paying the compensation awarded to the applicant following expropriation
Portugal	15 Jun. 2010	Pinto Romão de Sousa Chaves and Others (no. 44452/05) link	Violation of Art. 1 of Prot. 1	Delay in calculating and paying the compensation awarded to the applicants following expropriation
Romania	08 Jun. 2010	Maties (no. 13202/03) link	Violation of Art. 1 of Prot. 1	Lack of effective compensation for the applicant's land that was nationalised during the communist era
Romania	15 Jun. 2010	Forna (no. 34999/03) link	Just satisfaction	Just satisfaction following a judgment of 5 May 2009 establishing a violation of Art. 1 of Prot. 1
Romania	15 Jun. 2010	Mureşanu (no. 12821/05) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Partial non-enforcement of a final judgment in the applicant's favour
Turkey	08 Jun. 2010	Ato (no. 29873/02) link Bildirici (no. 43227/04) link Karacan (no. 14886/05) link	Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments in the applicants' favour
Turkey	08 Jun. 2010	Biçer (no. 21316/05) link	Violation of Art. 6 § 1 (fairness)	Failure to provide the applicant with a copy of the written opinion submitted to the Supreme Military Administrative Court by the Principal Public Prosecutor
Turkey	08 Jun. 2010	Büyükdere and Others (nos. 6162/04, 6297/04, 6304/04, 6305/04, 6149/04, 9724/04 and 9733/04) link	(Six cases) Violation of Art. 6 § 1 (fairness)	Failure to provide the applicants with a copy of the written opinion submitted to the Supreme Military Administrative Court by the Principal Public Prosecutor
Turkey	15 Jun. 2010	Adem Yılmaz Doğan and Others (no. 25700/05) link	Violation of Art. 1 of Prot. 1	Deprivation of property, designated as public forest area, without compensation
Turkey	15 Jun. 2010	Köksal and Durdu (nos. 27080/08 and 40982/08) link	Two violations of Art. 6 § 1 (fairness and length)	Failure to provide the applicants with a copy of the written opinion of the public prosecutor to the Supreme Administrative Court; excessive length of administrative proceedings
Turkey	15 Jun. 2010	Kurt and Others (no. 20313/03) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments in the applicants' favour in good time

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
Bulgaria	10 Jun. 2010	Kotseva-Dencheva (no. 12499/05)	Link
Hungary	15 Jun. 2010	Kokavecz (no. 39138/05)	Link
Hungary	15Jun. 2010	Váraljai (no. 31172/07)	Link
Poland	08 Jun. 2010	Kozłowski (no. 47611/07)	Link
Poland	08 Jun. 2010	Wypukoł-Piętka (no. 3441/02)	Link
Poland	15Jun. 2010	Seweryn (no. 33582/08)	Link
Poland	15Jun. 2010	Adamczuk (no. 30523/07)	Link
Turkey	15Jun. 2010	Cemil Aydın (no. 8537/05)	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 17 to 30 May 2010**.

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

State	*Date*	*Case Title*	*Alleged violations (Key Words)*	*Decision*
Azerbaijan	20 May 2010	Seydiyev (no 13648/06) link	Alleged violation of Art. 6 § 1 (failure to inform the applicant of the date and venue of the hearing before the Supreme Court), Art. 6 § 3 (c) (ineffectiveness of the free legal assistance), Art. 6 § 3 (d) (domestic courts' failure to examine witnesses on the applicant's behalf under the same conditions as witnesses against him), Art. 6 (excessive length of proceedings and fabrication of criminal case against the applicant)	Partly struck out of the list (unilateral declaration of the Government concerning failure to inform the applicant of the date and venue of the hearing before the Supreme Court, the ineffectiveness of the free legal assistance, the domestic courts had not examined witnesses on his behalf under the same conditions as witnesses against him), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Bulgaria	25 May 2010	Mlodziejewski (no 34856/06) link	Alleged violation of Art. 6 § 1 (excessive burden of customs duties and other taxes imposed on the applicant as a result of an event which was beyond his control), Art. 1 of Prot. 1 (excessive individual burden), Art. 14 (different treatment in comparison to those individuals whose cars were stolen after the legislative amendments of 1 November 2003 and who were entitled to remission from their debt), Art. 2 § 1 of Prot. 4	Partly adjourned (concerning claims under Art. 2 of Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)

			(restriction on the applicant's right of free movement)	
Bulgaria	18 May 2010	Semerdzhieva (no 34852/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings concerning the restitution of the applicant's expropriated plot of land)	Struck out of the list (unilateral declaration of Government)
Bulgaria	18 May 2010	Ivanov (no 27397/05) link	Alleged violation of Art. 6 §§ 1 and 3 (excessive length and unfairness of civil proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	18 May 2010	Antonov (no 43064/05) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of criminal proceedings and lack of an effective remedy), Art. 6 § 1 (unfairness of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings and the lack of an effective remedy), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	20 May 2010	Dimitrov (no 4145/06) link	Alleged violation of Articles 3 and 13 (absence of adequate protection from a violent attack in the street and lack of an effective remedy), Articles 6 and 13 (ineffectiveness of the proceedings concerning the stealing of the applicant's gold chain)	Partly adjourned (concerning the absence of adequate protection from the attack), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	18 May 2010	Georgiev (no 27241/02) link	Alleged violation of Art. 3 (conditions of detention and lack of adequate medical care in Pleven prison)	Inadmissible (for non-exhaustion of domestic remedies)
Cyprus	27 May 2010	Televantou (no 29512/08) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 2 (lack of an effective investigation), Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings and lack of an effective remedy), partly inadmissible as manifestly ill-founded (the Supreme Court's judgment was duly reasoned and there was no indication that it reached conclusions which were unreasonable and arbitrary or that the proceedings were otherwise unfair concerning the remainder of the application)
Cyprus	27 May 2010	Facondis (no 9095/08) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings), Art. 1 of Prot. 1 (financial loss due to the unfair trial), Articles 17 and 18	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings and lack of an effective remedy), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Cyprus	27 May 2010	Constantinou (no 29517/08) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 6 § 1 (unfairness of proceedings), Articles 2 and 8	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings and lack of an effective remedy), partly inadmissible as manifestly ill-founded (domestic courts' judgments were duly reasoned and there was no indication of any unfairness or arbitrariness concerning the remainder of the

				application)
Cyprus	27 May 2010	Kyprianou (no 59571/08) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 6 § 1 (unfairness of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning excessive length of proceedings and lack of an effective remedy), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Finland	18 May 2010	Pohjarakennus Oy Korpela (no 54841/08) link	Alleged violation of Art. 6 §§ 1 and 3 (excessive length and unfairness of taxation proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of taxation proceedings), partly inadmissible (the applicant company failed to substantiate its complaint concerning the remainder of the application)
France	25 May 2010	Boniface (no 28785/09) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (insufficient compensation concerning the excessive length of administrative proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention and the applicant could no longer claim to be a victim of a violation)
France	25 May 2010	Association De Défense Des Actionnaires Minoritaires (A.D.A.M.) (no 60151/09) link	Alleged violation of Art. 6 § 1 (lack of a "tribunal established by law") and Art. 13 (lack of an effective remedy), Art. 6 (failure to provide the applicant with the opinion of the public prosecutor, infringement of the principle of equality of arms)	Partly adjourned (concerning the (failure to provide the applicant with the opinion of the public prosecutor), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
France	25 May 2010	Y. (no 49196/07) link	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Sri Lanka), Art. 13 (lack of an effective remedy)	Struck out of the list (it is no longer justified to continue the examination of the application as the applicant had been granted asylum)
France	25 May 2010	E.S. (no 49714/06) link	Alleged violation of Art. 6 § 1 (lack of adversarial proceedings before the Cassation Court)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
France	25 May 2010	Sci De La Grande Baie (no 6885/06) link	Alleged violation of Art. 1 of Prot. 1 (domestic authorities' failure to validate the applicant's property rights)	Incompatible *ratione materiae*
France	25 May 2010	Xa. (no 36457/08) link	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to the Democratic Republic of Congo)	Inadmissible as manifestly ill-founded (unsubstantiated claims)
France	25 May 2010	P. M. (no 25074/09) link	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Congo), Art. 13 (lack of an effective remedy), Articles 5 and 6 (if expelled risk of being unlawfully detained and subjected to unfair proceedings)	Struck out of the list (it is no longer justified to continue the examination of the application as the applicant had been granted refugee status)
France	25 May 2010	R. S. (no 50254/09 link	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Sri Lanka)	Struck out of the list (it is no longer justified to continue the examination of the application in the absence of a *laissez-passer* concerning the applicant)
France	25 May 2010	Xi. (no 36144/08) link	Alleged violation of Articles 2 and 3 (risk of being killed or subjected to ill-treatment if expelled to Guinea), Art. 13 (lack of an effective remedy)	Struck out of the list (applicant no longer wished to pursue her application as she had been granted temporary residence status)
Hungary	18 May 2010	Tóth (no 15388/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Hungary	18 May	Csizmazia (no 26492/07)	Alleged violation of Art. 6 § 1 (excessive length of criminal	Idem.

	2010	link	proceedings)	
Hungary	18 May 2010	Szokol (no 8041/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Hungary	18 May 2010	Univerzál-Família Kft (no 8614/07) link	Idem.	Idem.
Hungary	18 May 2010	Társasház (Berzenczey U. 16-18.) (no 22816/07) link	Idem.	Idem.
Hungary	18 May 2010	Metripond-M Mérleggyártó Kft (no 14389/07) link	Idem.	Idem.
Hungary	18 May 2010	Rakssányi (no 31838/07) link	Idem.	Idem.
Hungary	25 May 2010	Felcser (no 14093/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) Art. 13 and 2 of Prot. 4 (the applicant's inability to claim alternative accommodation before vacating the flat in litigation)	Inadmissible as manifestly ill-founded (the proceedings did not exceed the "reasonable time" requirement and no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Italy	18 May 2010	Vallerotonda (no 52039/09; 66483/09) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings and insufficient compensation)	Inadmissible as manifestly ill-founded (the compensations awarded to the applicants could be considered adequate)
Latvia	25 May 2010	Epners-Gefners (no 37862/02) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention and excessive length of proceedings), Articles 3 and 8 (deprivation of family visits, including his wife and newborn son, for more than two years and domestic authorities' refusal to provide him with dental prosthetics, as well as a lack of proper dental treatment), Art. 6 § 1 (unfairness of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of the pre-trial detention), partly admissible (concerning claims under Articles 3 and 8), partly inadmissible as manifestly ill-founded no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Moldova	18 May 2010	Croitoru (no 29755/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (failure to enforce a final judgment in the applicant's favour), Art. 6 § 3 b) and c)	Partly struck out of the list (unilateral declaration of the Government concerning the failure to enforce a final judgment in the applicant's favour), partly incompatible *ratione materiae* (concerning claims under Art. 6 § 3 b) and c))
Moldova	18 May 2010	Poia (no 48522/06 link	Alleged violation of Art. 5 § 3 (domestic courts' failure to adduce relevant and sufficient reasons to justify the applicant's detention)	Struck out of the list (friendly settlement reached)
Norway	27 May 2010	O.M. (no 888/09) link	The applicant complained of a risk of losing his life if expelled to Iraq	Struck out of the list (the applicant no longer wished to pursue his application)
Poland	18 May 2010	Łuczak (no 22707/06) link	Alleged violation of Art. 3 (conditions of detention in the Wronki Prison), Art. 6 § 1 (outcome of compensation proceedings)	Struck out of the list (friendly settlement reached)
Poland	18 May 2010	Piwowarczyk (no 8103/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Poland	18 May 2010	Szwejer (no 5258/08) link	Alleged violation of Art. 5 §§ 3 and 4 (excessive length of pre-trial detention and hindrance to the applicant's right to challenge the lawfulness of his detention), Art. 8	Partly struck out of the list (unilateral declaration of the Government concerning the length of pre-trial detention and the hindrance to the applicant's right

			(restrictions on family visits in detention and monitoring of the applicant's correspondence with his wife)	to challenge the lawfulness of his detention), partly inadmissible as manifestly ill-founded (the applicant failed to substantiate his complaints concerning the remainder of the application)
Poland	18 May 2010	Gieracz (no 4084/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Poland	18 May 2010	Osuch (no 24612/09) link	Idem.	Idem.
Poland	18 May 2010	Chudzio (no 46/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Poland	18 May 2010	Wieczorek (no 31264/04) link	Alleged violation of Art. 6 § 1 (legal-aid lawyer's refusal to prepare a cassation appeal to the Supreme Court and another legal-aid lawyer's refusal to draw up an interlocutory appeal against the decision rejecting his own cassation appeal; outcome and unfairness of proceedings	Partly struck out of the list (unilateral declaration of the Government concerning the legal-aid lawyer's refusal to prepare a cassation appeal to the Supreme Court), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	25 May 2010	Wadielac (no 14260/09) link	Alleged violation of Articles 3 and 9 (authorities' refusal to grant the applicant leave to attend his mother's funeral), Art. 13 (lack of an effective remedy), Art. 11	Struck out of the list (friendly settlement reached)
Poland	25 May 2010	Gładczak (no 55595/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Poland	18 May 2010	Bysiec (no 35296/09) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings), Art. 5 § 3 (unlawfulness of detention) and Art. 13 (lack of an effective remedy), Art. 6 (outcome of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible (failure to substantiate the complaint concerning claims under Art. 13), partly inadmissible for non-respect of the six-month requirement concerning claims under Art. 5 § 3), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Portugal	18 May 2010	Pereira De Melo E Couto (no 44534/08) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings) and Art. 13 (lack of an effective remedy)	Partly struck out of the list (unilateral declaration of the Government concerning excessive length of proceedings), partly inadmissible for non-respect of the six-month requirement (concerning the unfairness of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Portugal	25 May 2010	Silva Marrafa (no 56936/08) link	Alleged violation of Articles 6 § 1 (excessive length of civil proceedings) and Articles 6, 13, 17, 34, 35 and Art. 1 of Prot. 1 (lack of an effective remedy)	Partly struck out of the list (unilateral declaration of the Government concerning the length of civil proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Romania	25 May 2010	Goranda (no 38090/03) link	Alleged violation of Art. 1 of Prot. 1 (inability to obtain compensation for nationalised property)	Struck out of the list (absence of any heir expressing the will to continue the application following the applicant's death)
Romania	18 May 2010	Diaconescu (no 14874/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Struck out of the list (the applicant no longer wished to pursue his application)
Romania	18	Drăganschi	Alleged violation of Articles 1, 2, 5, 6	Partly inadmissible as manifestly

	May 2010	(no 40890/04) link	§ 1 et 8 (lack of an effective investigation into the applicants' relative's death) and Art. 2 of Prot. 4 (restrictions on the applicants' right to freedom of movement)	ill-founded (the investigation could be considered effective), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 2 of Prot. 4)
Romania	18 May 2010	Diaconescu (no 7372/06) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a final judgment in the applicant's favour)	Incompatible *ratione personae*
Russia	20 May 2010	Zavaliy (no 6320/06) link	Alleged violation of Art. 5 § 1 (c) and §§ 3 and 4 (unlawfulness and excessive length of detention, hindrance to the applicant's right to attend certain detention hearings)	Struck out of the list (the applicant no longer wished to pursue his application)
Russia	27 May 2010	Lebedev (no 2) (no13772/05) link	Alleged violation of Articles 2 and 3 (lack of adequate medical treatment in the detention facilities allegedly put the applicant's life at risk and constituted inhuman and degrading treatment; being held in a metal cage during up to nine hours during court hearings, conditions of detention in remand prison IZ-77/1), Art. 5 §§ 3 and 4 (excessive length of detention and lack of an effective remedy), Art. 6 §§ 1, 2 and 3 (unfairness of proceedings, violation of the applicant's right to be presumed innocent and violation of the applicant's right to prepare his defence), Articles 7, 8, 17 and 18	Partly admissible (conditions of detention in remand prison IZ-77/1 and in the courtroom, length of detention, the review of the detention, the alleged lack of impartiality of a judge, the alleged breach of the right to be presumed innocent by the applicant's placement in a metal cage during the trial, the handling of evidence by the courts, the alleged lack of adequate time and facilities for the preparation of his defence, the alleged lack of effective legal assistance, the allegedly unforeseeable application of the tax law, the applicant's alleged inability to maintain family and social ties from the place where he served his sentence, the alleged political motivation behind the prosecution), partly inadmissible (concerning the remainder of the application)
Serbia	18 May 2010	Majstorović (no 39175/05) link	Alleged violation of Art. 6 § 1 (non-enforcement of a final domestic judgment in the applicant's favour)	Struck out of the list (friendly settlement reached)
Serbia	18 May 2010	Klčesko and Paunović (no 26330/07) link	Alleged violation of Art. 6 § 1 (non-enforcement of a final domestic judgment in the applicants' favour)	Idem.
Serbia	18 May 2010	Tutić (no 25332/07) link	Alleged violation of Art. 6 § 1 (non-enforcement of a final domestic judgment in the applicant's favour)	Idem.
Serbia	18 May 2010	Spica (no 43014/06) link	Alleged violation of Art. 6 § 1 (delay in the domestic proceedings, lack of an effective remedy and violation of property rights)	Partly struck out of the list (unilateral declaration of the Government concerning the delay in the domestic proceedings and the lack of an effective remedy), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Serbia	25 May 2010	Karaqi (no 47450/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (domestic authorities' continuing refusal to release the applicant's foreign currency savings)	Struck out of the list (the applicant no longer wished to pursue his application)
Slovakia	18 May 2010	Hanzeľová and Others (no 14306/08) link	Alleged violation of Articles 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Slovakia	18 May 2010	Horváthová (no 37437/07) link	Idem.	Idem.
Slovakia	18 May	Domanská (no 42394/08)	Alleged violation of Art. 6 § 1 (excessive length of civil	Idem.

	2010	link	proceedings), Art. 13 (lack of an effective remedy)	
Slovakia	18 May 2010	Abramčuková (no 2126/08) link	Alleged violation of Articles 6 § 1 (excessive length of civil proceedings)	Idem.
Slovakia	18 May 2010	Bartl (no 43771/07) link	Idem.	Idem.
Slovakia	18 May 2010	Bartl (no 43316/07) link	Idem.	Idem.
Slovakia	18 May 2010	Benedikt (no 57788/09) link	Idem.	Idem.
Slovakia	18 May 2010	Antoňáková (no 42641/07) link	Idem.	Idem.
Slovakia	18 May 2010	Dziak and Dziaková (no 9731/07) link	Idem.	Idem.
Slovakia	18 May 2010	Šimková (no 28224/09) link	Idem.	Idem.
Slovakia	18 May 2010	Bartl (no 52177/07) link	Idem.	Idem.
Slovakia	25 May 2010	Ševonka (no 7906/07) link	Idem.	Idem.
Slovakia	25 May 2010	Lihan (no 7915/08) link	Idem.	Idem.
Slovakia	25 May 2010	Spišiak (no 45135/06) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of enforcement proceedings)	Idem.
Slovakia	18 May 2010	Hajko (no 28360/08) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of civil proceedings)	Idem.
Slovakia	25 May 2010	Pavlíková and Others (no 50779/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 1 of Prot. 1	Idem.
Slovakia	25 May 2010	Paligová (no 17381/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 13 (lack of an effective remedy)	Idem.
Slovakia	25 May 2010	Václavek (no 26530/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Slovakia	25 May 2010	Pavleová (no 38089/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 1 of Prot. 1	Idem.
Slovakia	25 May 2010	Mlynarčíková (no 48885/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 13 (lack of an effective remedy)	Idem.
Slovenia	18 May 2010	Rupar (no 16480/02) link	Alleged violation of Articles 6 and 13 (ineffective legal avenues), Art. 1 of Prot. 1 (interference with the property right on account of the applicant's neighbour's illegal building)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Spain	25 May 2010	Cortina De Alcocer and De Alcocer Torra (no 33912/08) link	Alleged violation of Art. 6 § 1 (excessive length of *amparo* proceedings), Art. 6 §§ 1 and 3 (unfairness of proceedings), Art. 7 § 1	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Switzerland	20 May 2010	Haas (no 31322/07) link	Alleged violation of Art. 8 (the applicant complained of inability to obtain a medical prescription	Admissible

			requiring a psychiatric evaluation)	
the Czech Republic	18 May 2010	Svída (no 13603/06) link	Alleged violation of Art. 6 § 1 (excessive length of execution proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
the Czech Republic	18 May 2010	Benet Czech, Spol. S R.O. (no 38333/06) link	Alleged violation of Art. 1 of Prot. 1 (seizure of the applicant company's assets and business documents lasting for almost six years, and consequent financial losses caused by the major decrease of its liquid assets)	Inadmissible (for non-respect of the six-month requirement)
"the former Yugoslav Republic of Macedonia"	18 May 2010	Prentoski (no 31833/05) link	Alleged violation of Art. 6 § 1 (lengthy non-enforcement of a judgment in the applicant's favour)	Struck out of the list (unilateral declaration of Government)
"the former Yugoslav Republic of Macedonia"	18 May 2010	Dzonova and Others (no 15370/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) Art. 1 of Prot. 1 (deprivation of property)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded for failure to substantiate the complaint (concerning the remainder of the application)
the Netherlands	18 May 2010	Uitgeversmaatschappij De Telegraaf B.v. and Others (no 39315/06) link	Alleged violation of Articles 8 and 10 (violation of the right to impart information on account of the obligation imposed on the applicants to surrender the original documents) and the Court of Appeal and the Supreme Court had wrongly held the interest in the protection of journalistic sources to be outweighed by the interest of State security)	Partly adjourned (concerning the complaints in respect of the first, second and third applicants), partly incompatible *ratione personae* (concerning the fourth and fifth applicant)
the Netherlands	18 May 2010	Girgis (no 185/10) link	The case concerned an alleged risk of being subjected to treatment contrary to Article 3 if the applicant were to be expelled to Greece	Struck out of the list (the applicant no longer wished to pursue her application as her asylum application would be examined on the merits)
the Netherlands	18 May 2010	Roovers (no 22523/08) link	Alleged violation of Art. 5 § 4 and Art. 6 (the applicant's appeal against the prolongation of his extended detention on remand was not heard "speedily")	Struck out of the list (friendly settlement reached)
the Netherlands	18 May 2010	Çuban (no 31103/06) link	Alleged violation of Art. 6 § 1 (excessive length of administrative proceedings)	Struck out of the list (unilateral declaration of Government)
the Netherlands	18 May 2010	Elci (no 20528/07) link	Alleged violation of Art. 5 §§ 1 and 5 (unlawful detention in aliens' centre and lack of adequate compensation)	Struck out of the list (friendly settlement reached)
the Netherlands	18 May 2010	El Morabit (no 46897/07) link	Alleged violation of Art. 8 (unwarranted interference with the "family life" which the applicant had previously enjoyed with his parents due to his deportation to Morocco) and Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (there is nothing to suggest that the applicant is in any way dependent on his parents; lack of an arguable claim under Art. 13)
the Netherlands	18 May 2010	Bousana (no 21167/08) link	Alleged violation of Art. 6 § 2 (violation of the applicant's right to be presumed innocent)	Inadmissible as manifestly ill-founded (the Court of Appeal's reasoning can be considered as amounting to a finding of guilt or a voicing of suspicions against the applicant)
Turkey	24 May 2010	Bektaş and Others (no 13148/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Art. 6 § 3 (b) (failure to provide the applicants with adequate time and facilities for the preparation of their defence)	Struck out of the list (applicants no longer wished to pursue their application)
Turkey	18 May	Ercanlar Otomotiv TIC.	Alleged violation of Art. 1 of Prot. 1 (expropriation of property and total	Inadmissible as manifestly ill-founded (the applicant company

	2010	A.S. (no 7123/04) link	lack of compensation), Art. 6 § 1 (length of proceedings)	has not shown sufficient diligence to obtain the payment in question and reasonable length of proceedings)
Turkey	25 May 2010	Gecekuşu (no 28870/05) link	Alleged violation of Art. 2 (loss of eyesight because of medical negligence), Art. 6 § 1 (lack of effective access to a court) and Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (unsubstantiated allegations)
Turkey	25 May 2010	Aydin (3) (no 12574/07) link	Alleged violations of Articles 3, 6, 7 and 10	Inadmissible for being substantially the same as application no. 43641/05
Turkey	25 May 2010	Arslan and Kamurbay (no 45428/04) link	Alleged violation of Art. 2 (the State's failure to protect the applicants' relative's life), Art. 6 § 1 (excessive length of compensation and administrative proceedings)	Inadmissible as manifestly ill-founded (following adequate compensation the applicants could no longer claim to be victims of a violation; reasonable length of proceedings)
Turkey	18 May 2010	Yildirim (no 4300/05) link	Alleged violation of Art. 8 (interference with the applicant's private life on account of an article about him published in a newspaper)	Inadmissible as manifestly ill-founded (the interference was justified due to the national margin of appreciation when striking a fair balance between personality right and the freedom of the press)
Turkey	25 May 2010	Uzunçakmak (no 15371/05) link	Alleged violation of Art. 1 of Prot. 1 (non-enforcement of a final judgment in the applicant's favour)	Struck out of the list (friendly settlement reached)
Turkey	18 May 2010	Akar (no 28505/04) link	Alleged violation of Art. 8 (prison authorities' refusal to send the applicant's letter to its destination), Art. 10 (prison authorities' refusal to give the applicant the magazine to which he had subscribed), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning prison authorities' refusal to send the applicant's letter to its destination), partly inadmissible for non-respect of the six-month requirement (concerning claims under Art. 10), partly inadmissible as manifestly ill-founded (the applicant had effective remedies at his disposal)
Turkey	25 May 2010	Özbek (no 49652/06) link	Alleged violation of Art. 6 § 1 (length of criminal proceedings)	Struck out of the list (friendly settlement reached)

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 14 June 2010 : link
- on 21 June 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 14 June 2010 on the Court's Website and selected by the NHRS Unit

The batch of 14 June 2010 concerns the following States (some cases are however not selected in the table below): Belgium, Bulgaria, France, Latvia, Moldova, Norway, Poland, Russia, Slovakia, Spain, Switzerland and Turkey.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Bulgaria	26 May 2010	Ilieva and Georgieva no 9548/07	Alleged violation of Art. 3 – Question as to whether the bodily harm sustained by the applicants from the attacks on them by their neighbours was of such severity as to fall within the ambit of Art. 3 – Lack of an effective investigation – Alleged violation of Art. 8 – Lack of an effective investigation into the attacks against the applicants' physical and moral integrity – Alleged violation of Art. 13 – Lack of an effective remedy
Moldova	25 May 2010	Andronovici no 13424/06	Alleged violation of Art. 3 – Lack of an effective investigation into the alleged rape of the applicant, a minor at the time of the events, by a group of seven persons – Alleged violation of Art. 6 § 1 – Excessive length of proceedings
Moldova	25 May 2010	Povestca no 12765/04	Alleged violation of Art. 3 – Torture by police officers during arrest – Lack of an effective investigation
Norway	26 May 2010	Obiora no 31151/08	Alleged violation of Art. 2 – Domestic authorities' failure to ensure that the police receive proper training on the dangers involved in applying the method of restraint (on the stomach) to arrest the applicant's father, who died following his apprehension
Russia	27 May 2010	Gorovoy no 54655/07	Alleged violation of Art. 3 – Conditions of detention at the temporary detention centre in Naberezhniye Chelny – Alleged violation of Art. 5 § 3 – Unlawfulness and excessive length of detention
Russia	26 May 2010	Savenko no 29088/08	Alleged violation of Art. 10 – Conviction of the applicant to pay an excessive award for defamation for his verbal reaction to the Moscow courts' decision which upheld the Moscow authorities' refusal to authorise an opposition meeting
Russia	26 May 2010	Volodarskiy no 45202/04	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Alleged violation of Art. 6 § 1 – Unfairness of proceedings on account of the court's refusal to summon the witnesses or to strike out the relevant evidence as improperly drawn up
Slovakia	25 May 2010	Ringier Slovakia a.s no 35090/07	Alleged violation of Art. 6 § 1 – Lack of adversarial proceedings and infringement of the principle of equality of arms – Alleged violation of Art. 10 – Infringement of the applicant company's right to impart information
Slovakia	25 May 2010	Šarišská no 36768/09	Alleged violations of Articles 2 and 3 – State's failure to comply with its obligation to prevent the ill-treatment of the applicant's father, who succumbed to an injury inflicted by a projectile fired from a police service pistol during his interrogation on police premises, and to protect his life – Alleged violation of Art. 8 – As a result of her father's death, the applicant lost the possibility of knowing him, communicating with him and growing up in the presence of both her parents – Alleged violation of Art. 13 – Lack of an effective remedy
Turkey	26 May 2010	Bal no 38511/05	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment during detention in Adana military prison – Lack of an effective investigation – Alleged violation of Art. 5 § 1 – Unlawful detention
Turkey	26 May 2010	Çelik no 36487/07	Alleged violation of Art. 3 – Excessive use of police force during arrest – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 5 § 1 – Unlawfulness of detention – Alleged violation of Art. 5 § 5 – Lack of an effective remedy for compensation

Communicated cases published on 21 June 2010 on the Court's Website and selected by the NHRS Unit

The batch of 21 June 2010 concerns the following States (some cases are however not selected in the table below): Albania, Bulgaria, Cyprus, Finland, France, Greece, Hungary, Latvia, Lithuania, Poland, Romania, Russia, San Marino, Switzerland, the Netherlands, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Albania	31 May 2010	Beleri and Others no 39468/09	Alleged violation of Art. 6 § 1 – Excessive length of criminal proceedings – Alleged violation of Art. 10 – Infringement of the right to impart information and ideas on account of the applicants' conviction on charges of incitement to

			national hatred and defamation of the Republic and its symbols for carrying Greek flags and shouting pro-Greek slogans – Alleged violation of Art. 13 – Lack of an effective remedy concerning the length of proceedings
Finland	31 May 2010	F.S. no 57264/09 D.H. no 30815/09	Alleged violation of Art. 3 – Risk of being subjected to inhuman and degrading treatment if removed to Malta (first case) and Italy (second case)
France	02 Jun. 2010	Plathey no 48337/09	Alleged violation of Art. 3 – Conditions of detention in the disciplinary wing of Saint-Quentin-Fallavier prison – Alleged violation of Art. 6 § 1 – Lack of impartiality of the disciplinary commission – Alleged violation of Art. 13 – Lack of an effective remedy
Latvia	01 Jun. 2010	Longa Yonkeu no 57229/09	Alleged violation of Art. 5 – Unlawfulness of detention – Lack of access to a French-speaking interpreter and lack of legal assistance in the accommodation centre – Lack of an effective remedy to challenge the lawfulness of the detention – Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if removed to Cameroon
Poland	31 May 2010	Kania and Knittel no 35105/04	Alleged violation of Art. 10 – The applicants' conviction for publishing a series of articles relating to a politician's gift from a businessman, suggesting that the politician might have taken bribes
Romania	04 Jun. 2010	Bretean and Others no 22765/09	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Alleged violation of Art. 5 – Unlawful detention during the searches at the applicants' home – Lack of compensation in that regard – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 8 – Search of the applicants' home – Alleged violation of Articles 9, 10, 13 and 14
Romania	31 May 2010	Andresan no 25783/03	Alleged violation of Art. 3 – Ill-treatment by police officers – Lack of an effective investigation
Romania	31 May 2010	Karrer and Karrer no 16965/10	Alleged violation of Art. 8 § 1 – Interference with the applicants' right to respect for their family life concerning the authorities' refusal to order the return of the second applicant to Austria – Alleged violation of Art. 6 § 1 – Unfairness of proceedings
Russia	03 Jun. 2010	Kasarakin no 31117/07	Alleged violation of Art. 3 – Conditions of detention at remand prison no. IZ-77/3 in Moscow
Turkey	03 Jun. 2010	Gülaydin no 37157/09	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Turkey	02 Jun. 2010	Alimu and Other no 22681/09	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to China – Alleged violation of Art. 13 – Lack of an effective investigation – Alleged violation of Art. 5 § 1 – Unlawfulness of detention – Alleged violation of Art. 5 § 4 – Lack of an effective remedy to challenge the lawfulness of the detention
Ukraine	01 Jun. 2010	Molotchko no 12275/10	Alleged violation of Art. 3, 5 and 6 – Risk of being subjected to ill-treatment, unlawful detention and unfairness of proceedings if expelled to Belarus – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 3 – Conditions of detention in Dnipropetrovsk Temporary Investigative Isolation Unit – Alleged violation of Art. 5 § 1 – Unlawfulness of detention – Alleged violation of Art. 5 § 4 – Lack of an effective remedy to challenge the detention
Ukraine	01 Jun. 2010	Oleynikova no 38765/05	Alleged violation of Art. 2 (procedural) – Lack of an effective investigation into the applicant's son's death

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

Election of two judges (23.06.2010)

The Parliamentary Assembly of the Council of Europe has elected Vincent Anthony De Gaetano as judge to the Court with respect to Malta and Angelika Nussberger as judge to the Court with respect to Germany. Press release

Series of lectures (10.06.2010)

In partnership with the French *Conseil d'Etat*, the Court is launching a new series of lectures on human rights protection. Programme

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 14 to 15 September 2010 (the 1092nd 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)

Seminar in Moscow on the European Social Charter (15.06.2010)

A seminar on the ESC was held on 15 June 2010 in Moscow. The aim of this seminar was to assist the Russian authorities in drafting their first national report on the Revised Charter and to provide comprehensive information on the Charter with a view to a wider application of this instrument. Mr Colm O'CINNEIDE, member of the European Committee of Social Rights and Mr Matti MIKKOLA, former member, participated in this seminar, as well as Mr Régis BRILLAT, Head of the Department of the ESC and Ms Ana RUSU of the Department of the ESC. Programme; Programme *(Russian version)*

European Judicial Training Network - training session in Barcelona (16-18.06.2010)

A three day training session was held from 16 to 18 June 2010 in Barcelona on the subject "European Justice and the Persons involved". On this occasion, Mr Luis JIMENA QUESADA, Member of the European Committee of Social Rights, directed a workshop on the ESC and minority rights. Programme; Web site of the European Judicial Training Network

International Conference on the legal status of Roma and Sinti (16-18.06.2010)

An international conference on "The legal status of Roma and Sinti in Italy" was held in Milan from 16 to 18 June 2010. On this occasion, Ms Rovena DEMIRAJ, Administrator in the Department of the ESC spoke of the housing rights of Roma and Sinti and the Revised European Social Charter. Programme; Conference website

The June 2010 edition of the Newsletter of the European Committee of Social Rights is now available here

The next session of the European Committee of Social Rights will be held from 13 to 17 September 2010.

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

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

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

Council of Europe anti-torture Committee publishes report on Hungary (08.06.2010)

The CPT has published on 8 June the report on its fourth periodic visit to Hungary in March/April 2009, together with the response of the Hungarian authorities. Both documents have been made public at the request of the Hungarian authorities.

During the visit, the delegation received a few allegations of excessive use of force at the time of apprehension by the police. The CPT has recommended that a firm message continue to be delivered to police officers that no more force than is strictly necessary should be used when effecting an apprehension. As regards foreign nationals held under aliens legislation, the delegation received no allegations of ill-treatment, except at the Nyírbátor holding facility, where the atmosphere was tense. Material conditions of detention in the establishments visited were on the whole satisfactory. However, the paucity of purposeful activities for foreign nationals remains a matter of concern.

With regard to prisons, the delegation heard several credible accounts of physical ill-treatment of inmates by staff; overcrowding was compounded by serious understaffing which resulted in a high-risk

situation in terms of inter-prisoner violence. At Sátoraljaújhely Prison, particular attention was paid to prisoners held in the Special Security Unit (KBK) and the report makes recommendations aimed at improving the placement procedure, developing a suitable programme of activities and minimising the use of means of restraint. According to the authorities' response, new regulations on placement in a KBK are to be adopted in 2010. The CPT has criticised the disproportionate use of means of restraint to bring prisoners under control and certain excessive security arrangements (such as the routine body-belting of prisoners for transfers outside a prison). The Committee has also recommended that the Hungarian authorities review the regulations on the use of electric stun batons and stop using electric stun body-belts. Turning to psychiatric establishments, most of the patients interviewed spoke positively of the attitude of staff. However, the delegation found clear indications of inter-patient violence in the closed ward of Unit II of Nyírő Gyula Hospital in Budapest. The CPT has recommended to equip bedrooms with doors and to separate patients in an acute psychotic condition from psycho-geriatric patients. The report also contains recommendations related to the practice of resorting to means of restraint and the implementation of the legal safeguards in the context of involuntary hospitalisation.

Council of Europe anti-torture Committee visits Kosovo[*] (18.06.2010)

A delegation of the CPT has recently completed its second visit to Kosovo (from 8 to 15 June 2010). The visit was carried out on the basis of an agreement signed in 2004 between the Council of Europe and the United Nations Interim Administration in Kosovo (UNMIK). The delegation examined the treatment of detained persons and the conditions of detention in a variety of places of deprivation of liberty throughout Kosovo, including police stations, penitentiary establishments and psychiatric/social welfare institutions. In the course of the visit, the delegation had consultations with Ambassador Lamberto ZANNIER, Special Representative of the Secretary-General of the United Nations in Kosovo, Ambassador Werner ALMHOFER, Head of the OSCE Mission in Kosovo, and Mr Roy REEVE, Deputy Head of the European Union Rule of Law Mission (EULEX), as well as with Mr Haki DEMOLLI, Minister of Justice, Mr Bajram REXHEPI, Minister of Internal Affairs, Mr Nenad RAŠIĆ, Minister of Labour and Social Welfare, and other senior officials of the relevant ministries. Further, the delegation met Lieutenant General Markus BENTLER, Commander of KFOR, Mr Sami KURTESHI, Ombudsperson of Kosovo, and representatives of various International Organisations and non-governmental organisations.

C. European Commission against Racism and Intolerance (ECRI)

ECRI: Four new reports on racism (15.06.2010)

The ECRI published on 15 June four new reports examining racism, racial discrimination, xenophobia, antisemitism and intolerance in France, Georgia, Poland and "the former Yugoslav Republic of Macedonia". ECRI's Chair, Nils Muiznieks, said that while there have been positive developments in certain areas, other issues remain sources of concern in these countries. Report on France; Report on Georgia; Report on Poland; Report on "the former Yugoslav Republic of Macedonia"

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

Advisory Committee: Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Italy (21.06.2010)

Declare elected to the list of experts eligible to serve on the Advisory Committee on the Framework Convention for the Protection of National Minorities on 16 June 2010: Mr Francesco PALERMO in respect of Italy.

E. Group of States against Corruption (GRECO)

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[*] All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.
[†] No work deemed relevant for the NHRSs for the period under observation

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

On-site evaluation visit to the Republic of Cyprus completed (14.06.2010)

A MONEYVAL team of evaluators visited the Cyprus from 7 to 12 June 2010 under the fourth evaluation round. The visit was coordinated by the Unit for Combating Money Laundering (MOKAS). The team met with the Minister for finance, Mr Charilaos G. Stavrakis, the Attorney General, Mr Petros Clerides, as well as representatives from 30 organisations and agencies including law enforcement agencies, government departments, financial services supervisors and the private sector. The meetings were held in Nicosia. A key findings document was discussed with the Cyprus authorities and left with them at the conclusion of the mission. The draft report will now be prepared for review and adoption by MONEYVAL at its 35th Plenary meeting (March 2011). MONEYVAL`s fourth round evaluations are more focused and primarily follow up the recommendations made in the 3rd round. Evaluation teams in the fourth round examine all Financial Action Task Force (FATF) key and core Recommendations as well as other Recommendations which were previously rated "non compliant" or "partially compliant". Evaluations are complemented by issues linked to the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing in accordance with MONEYVAL's terms of reference.

Publication of the annual activity report for 2009 (16.06.2010)

MONEYVAL released on 16 June its annual activity report for 2009. This report provides detailed information about the Committee's activities and achievements in 2009, its co-operation with other international players in the global AML/CFT network of assessment bodies as well as its current initiatives and future areas of work in 2010. In 2009, MONEYVAL adopted 5 third round mutual evaluation reports, 10 first progress reports, 4 second progress reports and took action under the Compliance Enhancing Procedures in respect of two of its jurisdictions. It has completed its third round of mutual evaluations, which includes a review of progress overall in its countries as at the end of this evaluation cycle, becoming the first global assessment body to commence a more focused 4th round of evaluations on AML/CFT matters. Link to report

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

GRETA holds its 7th meeting

GRETA will hold its 7th meeting on 14-17 September 2010 at the Council of Europe in Strasbourg. At this meeting, GRETA will finalise preparations for the first round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties, in particular the preparation of its Reports, the organisation of country visits and requests for information addressed to civil society. GRETA will also hold a preliminary exchange of views concerning the practical organisation of its work with a view to drawing up a timetable for the evaluation of the 1st group of 10 parties. A list of items discussed and the decisions taken during the meeting will be made public after the meeting.

Part IV: The inter-governmental work

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

7 June 2010

Hungary ratified the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).

16 June 2010

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

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/ResCMN(2010)8E / 16 June 2010

Framework Convention for the Protection of National Minorities – Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Italy (Adopted by the Committee of Ministers on 16 June 2010 at the 1088th meeting of the Ministers' Deputies)

CM/Rec(2010)9E / 16 June 2010

Recommendation of the Committee of Ministers to member States on the revised Code of Sports Ethics (Adopted by the Committee of Ministers on 16 June 2010 at the 1088th meeting of the Ministers' Deputies)

CM/Rec(2010)8E / 16 June 2010

Recommendation of the Committee of Ministers to member States on youth information (Adopted by the Committee of Ministers on 16 June 2010 at the 1088th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Skopje: conference on integration of national minorities in Europe (08.06.2010)

The conference on the integration of the national minorities in Europe entitled as “Strengthening the Cohesion of European Societies” was held on June 7-8 in Skopje. In his opening speech, Minister of Foreign Affairs, Antonio Miloshoski, in his capacity of Chairman of the Committee of Ministers, spoke of the importance of the Framework Convention on National Minorities to the protection of this significant category of human rights in the European context. Speech by Antonio Miloshoski

Decisions on execution of judgements of the European Court of Human Rights (08.06.2010)

The Committee of Ministers of the Council of Europe concluded on 3 June its second special human rights meeting devoted to the supervision of the execution of the judgments of the European Court of Human Rights. The decisions were adopted directly at the meeting in some 20 cases or groups of cases. In the framework of its supervision of the execution of the 2009 judgment in the case *Ben Khemais against Italy*, the Committee of Ministers firmly recalled the Italian authorities’ obligation to respect interim measures indicated by the European Court of Human Rights. Decisions; Expulsions by Italy: obligation to comply with measures indicated by Court

Creating synergies between the OSCE and the Council of Europe (10.06.2010)

The OSCE and the Council of Europe should strengthen co-operation and avoid overlap to promote security on the basis of democracy, rule of law and respect for human rights, the Chairman of the Committee of Ministers Antonio Miloshoski told the OSCE Permanent Council on 10 June in Vienna. He also stressed that the Chairmanship supports the reform process of the Council of Europe, initiated by the Secretary General Thorbjørn Jagland. Speech by Antonio Miloshoski

Conference on Roma access to personal identification documents (14.06.2010)

The aim of the conference was to consider ways to improve access of Roma to personal identification documents, thus contributing to acquiring citizenship, the effective enjoyment of human rights, and achieving progress in the social inclusion of Roma. Organised under the Chairmanship of the Committee of Ministers, the conference took place in Skopje on 14-15 June.

20 June: World Refugee Day - Guarantee the rights of refugees, asylum seekers and displaced persons (18.06.2010)

On the occasion of World Refugee Day, the Chairman of the Committee of Ministers Antonio Miloshoski and the President of the Parliamentary Assembly Mevlüt Çavusoglu, referring to this year's theme "home", underlined the vulnerability of all those who had to flee from their home and their country. They drew attention to the obligation of Council of Europe member states to comply with international treaties for the protection of refugees and asylum seekers and the necessity to collaborate with the UNHCR. Website

Part V: The parliamentary work

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

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

- *Countries*

PACE President calls for full implementation of Resolution 1683 (16.06.2010)

During a press conference organised at the end of his official visit to Georgia from 13 to 15 June, PACE President Mevlüt Çavusoglu stressed that by coming to Georgia early in his Presidency he wanted to show the importance he attached to the country, its ongoing democratic reforms as well as its plight after the August 2008 war. He said his talks had focused on the consequences of the war between Georgia and Russia and the role that the Council of Europe, and especially PACE, could and should play in this respect as well as the ongoing democratic reforms and outstanding commitments of Georgia to the Council of Europe. He stressed that with regard to the consequences of the war between Georgia and Russia, he had re-iterated PACE's firm support for the territorial integrity of Georgia and called on all sides to fully implement the demands PACE had made, in particular in its Resolution1683, which addresses crucial humanitarian issues affecting the daily life of the inhabitants in this region. "These demands focus on the freedom of movement of civilians over the administrative borders with the two regions; access, and more important, the presence of monitors as well as international and humanitarian organisations; the right to return of IDPs; a full and credible investigation into alleged violations of human rights and humanitarian law committed by any side, including Georgia, in relation to the war", he recalled.

With regard to ongoing democratic reforms, the PACE President welcomed that the last local elections were considered a big improvement by international monitors, whilst stressing the need to address remaining important shortcomings. A new election code should be drafted with the help of the Venice Commission, and in dialogue and consultation with both parliamentary and extra-parliamentary opposition, well before the next parliamentary elections, the President said.

He also called on the authorities to strengthen dialogue with all opposition forces on issues deemed important for the development of the country and welcomed reforms aimed at consolidating democracy and strengthening the role of the parliament. He finally expressed his concern about complaints brought to his attention with regard to decreasing media pluralism and lack of transparency with regard to media ownership, the independence of the judiciary, especially in cases that have political implications, as well as allegations that political motives had affected the prosecution and sentencing of persons. "I met a woman on hunger strike in front of the Council of Europe office who claimed her brother was in prison for political reasons. If true, this would be unacceptable and I will ask the President to investigate," he said. "These are worrying issues that could directly affect the further European integration of Georgia. I will therefore ask the PACE co-rapporteurs for Georgia to organise a visit in the very near future, giving priority to these important human rights issues, he said.

PACE President at European Forum Cyprus (17.06.2010)

Speaking on 11 June at the 'European Forum Cyprus', a Council of Europe initiative, which is co-financed by the European Union and brings together young Cypriot leaders from all walks of life in the two communities on the island, PACE President Mevlüt Çavusoglu told participants that this initiative was essential to foster dialogue, mutual respect, confidence and co-operation between future generations of leaders of the island – a necessary condition for a peaceful and prosperous Cyprus.

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

"PACE has dealt with the Cyprus issue with many initiatives and resolutions. The aim has been, and remains – in line with Resolution 1628 (2008) - to find "a lasting and comprehensive solution for a peaceful and united Cyprus, which would guarantee the legitimate rights of both Greek and Turkish Cypriots, in full compliance with the values and principles of the Council of Europe," the President added. He also recalled that PACE was the only international assembly in which the elected representatives from both the Greek and the Turkish communities can participate. "In 2004, with Resolution 1376, the Assembly decided to associate more closely the elected representatives of the Turkish Cypriot community in the work of the Assembly and its committees, and integrate them into the Cypriot delegation. It took a lot of imagination, flexibility and political courage to devise this formula but I am convinced that dialogue is the only way forward and that we are on the right path," he said.

- *Themes*

Freedom of movement of people a pre-condition for any further integration (07.06.2010)

8th Conference of Speakers of Parliament from the countries of the South-East European Co-operation Process (SEECP)

"Freedom of movement of people in Europe is the absolute pre-condition for any further integration," PACE President Mevlüt Çavusoglu said in his speech on 7 June at the 8th Conference of Speakers of Parliament from the countries of the South-East European Co-operation Process (SEECP) held in Antalya. He was satisfied, he said, that a visa-free regime had been introduced by several countries of the Western Balkans and that the EU Commission had recommended the abolition of visas for Bosnia and Herzegovina and Albania. South-Eastern Europe was not simply the object of his special interest, but also an important priority for the Assembly, the PACE President underlined, recalling his recent visits to Albania, Bosnia and Herzegovina, Moldova and Montenegro, as well as Assembly meetings held in Skopje two weeks ago. "The South-East European Co-operation Process is an effective form of co-operation based on a powerful principle: the idea that our region must take its future in its own hands," Mr Çavusoglu said, predicting that it would grow more and more influential within and beyond its borders. "The parliamentary dimension of this Process makes it more democratic and closer to the people of the member countries," the President concluded, underlining that he was extremely pleased and proud to see such an important conference being held in his region and constituency. Speech by PACE President

PACE encourages the EU to accede to the Convention on Action against Trafficking in Human Beings (10.06.2010)

"The Parliamentary Assembly strongly encourages the European Union to accede to the Council of Europe Convention on Action against Trafficking in Human Beings as soon as possible, so that the same standards can be applied here throughout Europe, including the European Union," said Lydie Err (Luxembourg, SOC) in Brussels on 10 June at a seminar on combating and preventing trafficking in human beings held by the Committee on Women's Rights and Gender Equality and the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament. "At a time when the European Union is drawing up a directive on combating and preventing trafficking in human beings, I consider it imperative that the standards which the European Union is intending to set out are neither incompatible with, nor less demanding than, those of the Council of Europe in this area. We must co-operate and co-ordinate our work if we wish to set up effective systems to protect victims," she added, and announced that the PACE would be holding an international parliamentary conference on action against trafficking in human beings in Europe on 3 December 2010. Statement by Lydie Err (Luxembourg, SOC)

PACE President calls for enhanced intercultural dialogue to fight increasing intolerance (11.06.2010)

In his opening speech at the European Conference of Speakers of Parliament, PACE President Mevlüt Çavusoglu told the some 300 participants that increasing intolerance and discrimination were one of the biggest challenges of the era of globalization. "With the consequences of the economic crises, these problems have become even more acute," he said underlining that the foundation of the common European home had to be built on an open society based on respect for diversity, not on exclusion, not on discrimination, not on fear and certainly not on hatred.

In light of one of the main topics of the Conference, 'the implementation of the principle of non-discrimination', the President recalled that only 17 out of the Council of Europe's 47 member States had ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms enshrining the principle of non-discrimination, 20 more had signed but not ratified it, and several countries had expressed reservations. "It is important that we examine together what might be done more generally to embody human rights principles of non-discrimination within our national legislations," he reminded participants. "In order to fight discrimination, legal instruments are, of course, necessary. However, we must also strive to improve the general climate in our societies. Therefore we must enhance inter-cultural dialogue including its inter-religious dimension. We must eradicate racism, xenophobia, anti-semitism, Islamophobia and all kinds of similar phobia leading to discrimination and intolerance," Mr Çavusoglu continued.

Measures to strengthen democracies at a time of economic crisis and increasing discrimination (12.06.2010)

At a moment when European democracies are faced with a multitude of challenges, not least the impact of the economic crisis, globalisation and the need to react with swift decisions, the sense of responsibility by all political forces and the courage to support unpopular choices is extremely important, the President of PACE Mevlüt Cavusoglu and the Speaker of the Parliament of the Republic of Cyprus, Marios Garoyian, said at the end of the European Conference of Presidents of Parliament in Limassol on 12 June. The vulnerability of some disadvantaged groups, which risked increasing in the current context of the economic crisis together with intolerance and discrimination, also needed to be addressed through a renewed commitment to implement international human rights law, they stressed.

National parliaments should urgently promote the signature and/or ratification of Protocol No. 12 to the European Convention on Human Rights enshrining the principle of non-discrimination, participants said. They should adopt robust anti-discrimination legislation and support the setting up of specialised national bodies for the elimination of discrimination and the promotion of equality to assist the implementation of such legislation. National parliaments could also devise parliamentary mechanisms to screen their domestic legislation, so as to abolish laws based on discrimination or amend laws having discriminatory effect as well as scrutinise government policy and call governments to account in regard to policies which might have discriminatory effects. The conference finally recommended positive measures in favour of disadvantaged groups as well as support for inter-cultural dialogue, including its religious dimension. With regard to the rights of the opposition, there was no unique model of electoral system that could be recommended as the best one, participants concluded. However, excluding large sections of the population from the right to be represented was detrimental to the democratic system.

Complying with international treaties for the protection of refugees (18.06.2010)

Joint Statement by the Chairman of the Committee of Ministers and the President of the Parliamentary Assembly of the Council of Europe

On the occasion of World Refugee Day, the Chairman of the Committee of Ministers of the Council of Europe, Minister of Foreign Affairs Antonio Miloshoski, and the President of PACE, Mevlüt Çavusoglu, referred to this year's theme "home" and underlined the vulnerability of all those who had to flee from their home and their country. They drew attention to the obligation of Council of Europe member States to comply with international treaties for the protection of refugees and asylum seekers and the necessity to collaborate with the UNHCR.

Recalling that the Council of Europe was created to protect the rights of all people within Europe, they noted that "more than ever, there is a need to ensure that the rights of refugees, asylum seekers and displaced persons are guaranteed in practice. Each case is a special one and involves a personal drama, which all the more deserves special attention and approach, especially having in mind that almost half of the worldwide displaced persons and refugees are children. The Council of Europe is well placed to contribute to the protection of refugees at pan-European level through its human rights approach."

Warning over sending children back to unsafe areas (18.06.2010)

Speaking on the eve of World Refugee Day on 20 June, John Greenway (United Kingdom, EDG), Chair of the Committee on Migration, Refugees and Population of PACE, made the following statement: "World Refugee Day is an important opportunity to remind governments of their human rights obligations to asylum seekers and refugees. Our Committee continues to be concerned about the treatment of child migrants and refugees. The committee has recently reconfirmed its total

opposition to the detention of child migrants and its concerns over forced returns. In this context, recent plans to forcibly return unaccompanied children, many of whom have claimed asylum in Europe, to Afghanistan, and reports that 'reception' centres could be established in Kabul for deported children, raise concerns. On the one hand, the willingness to find solutions for unaccompanied children, and provide those that are being returned with a measure of support, is to be welcomed. On the other hand, questions arise over whether sending them back into an unsafe environment – especially as many may be orphans – will be in their 'best interest'. These children are as vulnerable as it is possible to be. However secure and well-run reception centres may be in Kabul, it is not clear how these children will be kept safe in a country where violence is endemic and human rights are routinely violated. The current push to return irregular migrants, including children, is in part motivated by the economic crisis and partly by domestic political pressure. Children should not be hostages of the economic crisis and political pressure, however, and decisions concerning their welfare should be taken only on the grounds of their "best interest", as guaranteed under the UN Convention on the Rights of the Child. The Council of Europe has a firm position on forced returns, whether this is for adults or for children. The Council of Europe's 'Twenty Guidelines on Forced Returns' must be fully respected and alternative solutions to forced returns need to be examined. In this respect the Assembly will be debating on 22 June how to promote voluntary returns as a humane, effective and less costly alternative to forced returns, and will later be looking in detail at the issue of unaccompanied minors in Europe: issues of arrival stay and return.

World Refugee Day is also an opportunity to remind all Council of Europe member States that by ratifying the 1951 Refugee Convention relating to the Status of Refugees, state parties have committed themselves to protect refugees and find durable solutions to their problems." PACE report on voluntary return programmes (PDF); Motion on unaccompanied minors in Europe (PDF); Twenty Guidelines on Forced Returns (PDF)

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

A. Country work

Croatia: Time to solve post-conflict human rights issues (17.06.2010)

"Croatia has made important progress since its independence. However, solving serious human rights issues caused by the 1991-1995 war still require further determination" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, presenting on 17 June his report on the country. Following a visit carried out in April, the report sets out recommendations about human rights of displaced persons and asylum seekers, proceedings relating to post-war justice and the situation of Roma. Read the report

B. Thematic work

Torture allegations must be properly investigated (09.06.2010)

"During the 'war on terror' core principles of human rights have been violated – also in Europe. Thousands of individuals have been victimised, many of whom are totally innocent. It is urgent that the damage now be repaired and steps be taken to prevent such violations in the future" said the Council of Europe Commissioner's for Human Rights, Thomas Hammarberg, publishing on 9 June his Human Rights Comment. Read the Human Rights Comment

European states should respect advice by UNHCR (16.06.2010)

"Advice by the authoritative United Nations refugee agency is nowadays not sufficiently respected by governments and state agencies in Europe. UNHCR strong recommendations have simply been ignored in a number of recent cases" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing on 16 June his Human Rights Comment. Read the Comment

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

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

European NPM Project: Thematic Workshop on "The role of National Preventive Mechanisms against torture (NPMs) in protecting individuals' key rights upon deprivation of liberty by the police", 9-10 June 2010, Tirana, Albania

The second Thematic Workshop of the European NPM Project was convened on 9-10 June 2010 in Tirana, Albania. The event was co-organised with the Office of the People's Advocate for the Republic of Albania (the NPM of Albania), and saw the participation of representatives from 18 of the 21 operating European NPMs. In addition, representatives of the Sub-Committee on Prevention (the SPT), former members of the CPT, as well as experts from the Association for the Prevention of Torture, Geneva (the APT), UNDP and Council of Europe staff contributed to this meeting.

The Workshop was divided into two Working Sessions that explored the key rights of individuals deprived of their liberty by the police from a substantive perspective as well as from a methodological perspective.

Working Session One's substantive focus included presentations and discussions on the overall framework of the international standards established to protect these key rights. The Session approached main areas of concern in practice that international, regional and national/NPM experts have encountered when monitoring police facilities.

This Working Session also explored core substantive medical issues. Presentations and discussions by medical professionals and other participants, from both a national and international perspective, explored and highlighted key problematic areas of substance.

Working Session Two focused on various methodological issues and explored how an NPM can most effectively monitor the respect for key rights for individuals upon deprivation of liberty by the police. This session was geared at an exchange of best practices from the national and international perspectives on challenges faced when monitoring police detention facilities. This Session also saw the participation of various police professionals who contributed their valuable perspective on the effective safeguarding of the rights of those deprived of their liberty in police detention during the discussions.

Lastly, special rights for certain vulnerable groups, such as juveniles, women and the rights of those with mental and physical disabilities, were explored and discussed within the context of places of deprivation by liberty by the police.

A debriefing paper is currently being drafted, which summarises the core outputs of the meeting.

Thematic Workshop of the National Human Rights Structures' (NHRSs) Network on the role of NHRSs in protecting the rights of victims of trafficking in human beings, 16-17 June 2010, Padua, Italy

The first thematic workshop under the "Peer to Peer II Project" (P2P) took place on 16-17 June 2010 in Padua (Italy). A total of 42 participants, including 27 NHRS representatives from 21 member States of the Council of Europe (CoE), participated in this event, which focused on the role of NHRSs in protecting the rights of victims of trafficking in human beings. The workshop was co-organised with the Interdepartmental Centre on Human Rights and the Rights of People of the University of Padua. The issue of trafficking had already been twice part of the theme of a P2P workshop, once when dealing with irregular migration and once when discussing the protection of unaccompanied minors. However, it had been felt by a number of NHRSs that the issue deserved to be the focus of an entire event.

An opening session by Markus Jaeger, Head of Legislative Support and NHRS Division of the Directorate General of Human Rights and Legal Affairs of the CoE, set the scene of the workshop and its specific focus on the role of NHRSs in protecting of the rights of victims of Trafficking. A keynote speech by Claudia Lam, of the Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings, explained the importance of the human rights approach in addressing

trafficking in human beings. The Convention was presented in conjunction with its monitoring mechanisms and the relevant judgments of the European Court of Human Rights concerning trafficking were explained.

The first working session was dedicated to the difference between trafficking in human beings and the smuggling of migrants. The importance of the process of the identification of victims was explained in the presentation of Professor Paola Degani of the Interdepartmental Centre on Human Rights and the Rights of People of the University of Padua. Failure to identify victims at a very early stage is likely to result in their insufficient protection, causing a series of violations of their rights.

The second working session focused on the need for co-ordinated multidisciplinary action. It was explained that this action implies the concerted approach of a number of actors in order to ensure that the victims are supported and, at the same time, that the anti-trafficking law enforcement measures are enforced. Mr Claudio Donadel of the Municipality of Venice shared with participants the experience in the Veneto Region (Italy) were law enforcement, social services and NGOs work hand in hand. In this session a special focus was given to the option of voluntary repatriation. Paola Pace from the IOM said that this option should be taken into consideration only after a risk assessment was made to take due account of all objective and subjective elements, including as regards stigmatisation and violation of the victim's privacy. Return should be accompanied by a reintegration plan. Protecting trafficked persons, especially women and children, from harm, threats or intimidation by traffickers and associated persons once they return home seems to be the biggest challenge

The final working session consisted of the presentation of a number of best practices related to the work of National Rapporteurs and/or National Commissions against Trafficking, from Bulgaria, the Czech Republic, Romania, as well as from the representatives of two Spanish NGOs. Emphasis was given to the challenges posed by co-ordinating counter-trafficking measures at national level to ensure a well-concerted response and reduce duplication of interventions.

Participants found that the phenomenon of trafficking is both complex: and abyssal: Trafficking in human being takes many forms (ever changing trafficking routes and techniques), serves many purposes (sexual exploitation, exploitation of the work force, organ transplants, adoption, etc.), touches upon a wide range of people (unborn children, babies, children, women, men) in a large number of countries (origin, transit or destination, or several of those). In the end, a *tour de table* was an opportunity to exchange and explore approaches and best practices of NHRSs for meeting the many challenges posed to them in their endeavours to protect the rights of victims of trafficking.

The working documents of the workshop, including expert presentations, can be found on the website of the Interdepartmental Centre on Human Rights and the Rights of People of the University of Padua at: http://unipd-centrodirittiumani.it/en/news/15-16-June-in-Padua-a-Council-of-Europe-training-seminar-for-European-Ombudsmen-on-combating-trafficking-of-human-beings/1657