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

("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

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

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Introduction

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

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

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

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

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

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

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

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Grand Chamber judgments**

Neulinger and Shuruk v. Switzerland (link to the judgment in French) (no. 41615/07) (Importance 1) – 6 July 2010 – There would be a violation of Article 8 in respect of both applicants if the decision ordering the second applicant's return from Switzerland to Israel were to be enforced

The applicants are Ms Neulinger and her son Noam. Ms Neulinger settled in Israel and married Shai Shuruk in 2001. Their son, Noam, was born in 2003. Fearing that Noam would be taken by his father to a "Chabad-Lubavitch" community, Ms Neulinger applied to the Tel Aviv Family Court, which in 2004 imposed a ban on Noam's removal from the country until he attained his majority. She was awarded temporary custody; guardianship was to be exercised by both parents jointly. The father's access rights were subsequently restricted on account of his threatening behaviour. In 2005 the parents divorced and Ms Neulinger secretly left Israel for Switzerland with her son. In a decision of 2006, issued following an application by the child's father, the Tel Aviv Family Court held that the child's removal from Israel without the father's consent was wrongful within the meaning of Article 3 of the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980 ("the Hague Convention"). In a decision of 2006 the father's application for his son's return to Israel was dismissed by the Lausanne District Justice of the Peace on the ground that there was a serious risk that the child's return to Israel would expose him to physical or psychological harm or otherwise place him in an intolerable situation. The Vaud Cantonal Court dismissed the father's appeal, confirming that this case was an exception to the principle of the child's prompt return, in accordance with the Hague Convention. The Swiss Federal Court allowed the father's appeal and ordered Ms Neulinger to return the child to Israel. In 2009 the applicants provided the Court with the certificate of a doctor who had examined Noam in 2005, and several times since then, indicating that "an abrupt return to Israel without his mother would constitute a significant trauma and a serious psychological disturbance for this child". In a provisional-measures order of June 2009 the Lausanne District Court, at the request of

Ms Neulinger, decided that Noam should live at his mother's address, suspended the father's right of access in respect of his son and granted parental authority to the mother.

The applicants submitted that Noam's return to Israel would constitute an unjustified interference with their right to respect for their family life.

In a judgment of 8 January 2009, the Court held, by four votes to three, that there had been no violation of Article 8. The case was referred to the Grand Chamber at the applicants' request. A Grand Chamber hearing took place in October 2009.

Article 8

The Grand Chamber found, like the Chamber, that Noam's mother had removed him from Israel "wrongfully". The mother had removed the child in breach of an order prohibiting his removal from Israel that had been made by the domestic court at her own request, and the removal rendered illusory the possible exercise by the father of his right of access. She had thus committed abduction for the purposes of the Hague Convention; the Swiss Federal Court's order for the child's return therefore had a sufficient legal basis. The Grand Chamber shared the Chamber's opinion that the order pursued the legitimate aim of protecting the rights and freedoms of Noam and his father, which the parties had not denied. In ascertaining whether a fair balance between the competing interests at stake had been struck, the child's best interests had to be the primary consideration.

It was the Court's task to ascertain whether the domestic courts had respected Article 8 of the Convention, particularly taking into account the child's best interests. The Court noted that those courts had first dismissed then allowed the father's appeal. According to the experts' reports there would be a risk for Noam in the event of his return to Israel, and, in the view of the courts, he could return only with his mother so as to avoid significant trauma. The Court accepted that the return order remained within the margin of appreciation afforded to national authorities in such matters. Nevertheless, if such a measure was enforced a certain time after the child's abduction, that might undermine the pertinence of the Hague Convention, according to which, a child's return could not be ordered if he was settled in his new environment. Noam had Swiss nationality and had arrived in the country at the age of two; he had settled well there; he now went to school in Switzerland and spoke French. Even though, at age 7, he still had a certain capacity for adaptation, the fact of being uprooted again could have serious consequences for him. The Court noted that restrictions had been imposed by the Israeli courts on the father's right of access. The applicants had submitted that Noam's father had remarried and a few months later had divorced his pregnant wife, who had subsequently brought proceedings against him for failure to pay maintenance. The Court doubted that such circumstances would be conducive to Noam's well-being and development. Whilst the Chamber had found no reason to doubt the credibility of the Israeli authorities' assurances concerning the risk of criminal sanctions against Ms Neulinger, the Grand Chamber observed that according to a letter of April 2007 from the Israeli Central Authority, the possibility of her not being prosecuted would depend on a number of conditions. Criminal proceedings could not be ruled out entirely and if Ms Neulinger were to be imprisoned that situation would not be in Noam's best interests and it was doubtful whether the father would have the capacity to take care of the child, whom he had not seen since his departure. Ms Neulinger, a Swiss national and therefore entitled to remain in the country, was not therefore totally unjustified in refusing to return to Israel. The Court was not convinced that it would be in the child's best interests for him to return to Israel. As to the mother, she would sustain a disproportionate interference with her right to respect for her family life if she were forced to return to Israel. The Court held, by 16 votes to one, that there would be a violation of Article 8 in respect of both applicants if the decision ordering Noam's return to Israel were to be enforced. Judge Lorenzen expressed a concurring opinion joined by Judge Kalaydjieva. Judges Cabral Barreto and Malinverni each expressed a concurring opinion. Judges Jočienė, Sajó and Tsotsoria expressed a joint separate opinion and Judge Zupančič expressed a dissenting opinion.

- **Right to life**

Vachkovi v. Bulgaria (no. 2747/02) (Importance 2) – Two violations of Article 2 (substantive and procedural) – (i) The applicants' son fatal wounding on account of the unnecessary use of police force during an arrest attempt – (ii) Lack of an effective investigation

The case concerned the applicants' allegation that the police had shot in the head and killed their 28-year-old son, Gancho Vachkov, on a wanted list of robbery suspects, after trapping him in a residential building following a car chase during which he was trying to escape. Between 1996 and 1998, two sets of criminal proceedings for car theft, illegal possession of arms and robbery were opened against the applicants' son, and an arrest warrant in his name was issued in 1996. In June 1999, while playing football with friends, the applicants' son noticed that the police were observing him. He drove away at high speed with a police car following him closely. During the chase through the streets of Sofia, fire

was opened on the police with an automatic weapon (by the applicants' son or the person accompanying him). Firing back, the police managed to puncture his car tyres and he ran away on foot. The exchange of gunfire continued until he took refuge in a residential building. The police sealed off the area and masked officers then entered the building after which gunfire was heard. Shortly after, the applicants' son was brought out by the police, shot in his head but still alive, his hands tied behind his back. Taken to a hospital, he died later that day. Subsequently it was established that the masked officers who had followed the applicants' son were from the special anti-terrorist squad of the Ministry of the Interior. A criminal investigation was opened into the events on the same day. A number of investigative acts were carried out: those included an inspection of the applicants' son's car and of the site where he was shot (but which was not preserved); two autopsies, performed on 7 and 11 June respectively, established that the fatal gun shot had been fired at close range; witnesses were questioned, including some who enjoyed anonymity. The officers who followed the applicants' son were never identified or questioned. An expert report assessing the applicants' son's mental state during the hours preceding his death concluded that suicide was a possible explanation for his death. In September 1999, the criminal proceedings were discontinued, the prosecutors finding that no offence had been committed given that the immediate cause of the applicants' son's death had been suicide. The applicants appealed unsuccessfully several times to the higher prosecutors asking that the case be sent to the courts.

The applicants complained about the excessive use of force against their son and the inadequacy of the ensuing investigation.

Article 2 (substantive)

The Court noted that the applicants' son had been fatally wounded during an attempted police arrest. Following his entry into the residential building, the whole area had been sealed off by the police who had had at the time complete control of the situation. While it had not appeared that the applicants' son could have successfully escaped, the police had not even attempted to minimise, as much as possible, recourse to lethal force. As it had not been established that there had been any danger or urgency justifying the use of firearms for the applicants' son's arrest, the Court found that the police could have attempted to negotiate with him to surrender, or at least to warn him of their intentions to fire. Instead, apparently without considering any other alternative action, the special squad officers had rushed into the building firing their guns. The Court concluded that the arrest operation had not been adequately planned and that, in those circumstances, the force used had not been absolutely necessary, as required by the Convention. There had therefore been a violation of Article 2.

Article 2 (procedural)

The Court observed that the Bulgarian authorities had undertaken a number of investigative acts. However, it was struck by the fact that they had failed to collect a crucial piece of evidence, namely statements from the special squad officers who had been directly involved in the applicants' son's arrest. Those officers appeared to have been unconditionally exempted from their duty to testify in criminal proceedings, something for which there could be no excuse given the authorities' obligations under Article 2 to conduct effective investigations where suspicious deaths were at stake. Further, the reliability of the psychiatric report carried out after the applicants' son's death was seriously questioned by the Court. In addition, unlike the prosecutor's affirmation, the Court found the evidence gathered to have been inconclusive, leaving open both possible explanations for the applicants' son's death: suicide as well as manslaughter. The discontinuation of the investigation, without identifying first the officers who had taken part in his arrest, indicated a deplorable lack of accountability of the police before the law. Finally, the investigation was found to have been incomplete, a number of important investigative acts never having taken place. Accordingly, the Court concluded that the investigation into the applicants' son's death lacked the necessary thoroughness and objectivity, and was not effective, in violation of Article 2. Judge Maruste expressed a separate concurring opinion.

Carabulea v. Romania (no. 45661/99) (Importance 2) – Violations of Article 2 (substantive and procedural) – (i) Domestic authorities' failure to provide timely medical care to the applicant's brother and any satisfactory explanation for the death of a perfectly healthy 27-year old man placed in police custody – (ii) Lack of an effective investigation – Violations of Article 3 (substantive and procedural) – (i) Torture in police custody – (ii) Lack of an effective investigation – Violation of Article 13 – Lack of an effective remedy in respect of the death of his brother, including any claim for compensation

The case concerned the applicant's allegation that his 27-year-old brother, Gabriel, died after being tortured in police custody, and not, as alleged by the Romanian Government, as a result of a pre-existing disease or anomaly with his venous system. Gabriel Carabulea was arrested in April 1996 and taken to a police station in Bucharest for questioning about a robbery. He was not examined by a doctor but, according to the Government, was in good health when placed in the police lock-up. His

wife, who visited him the same day, corroborated that claim. On 15 April, however, she noticed that he had difficulty walking. On 16 April, he was found to be in a generally altered state of health by the medical assistant at the police dispensary and was taken to the Ministry of the Interior Hospital. The medical records there noted that he was in a state of shock, vomiting blood and in great pain upon arrival. He was then admitted later on in the afternoon to Jilava Penitentiary Hospital and was then transferred to intensive care. Interrogated on his arrival, he remained under constant police supervision at that hospital until his death on 3 May 1996. An autopsy report issued the next day concluded that the cause of death was acute cardio-respiratory insufficiency and bronchopneumonia. All of the autopsies and expert reports, submitted by both parties, further noted a bruise at the front of Gabriel's right hip "resulting from violence" and internal bleeding on the liver sustained by "blunt force trauma". The applicant alleges that Gabriel told his wife and a friend that, when refusing to admit to the robbery, he had been hung by handcuffs from a locker and beaten and, rolled up in a wet carpet, had also been jumped on and beaten with sticks. Gabriel's wife filed a complaint in May 1996 requesting that a murder investigation be opened into her husband's death. The investigation by the military prosecuting authorities, discontinued in August 1996 and reopened in February 1997, was ultimately dropped in 1998 with a decision not to press charges against the accused police officers on the ground that Gabriel had died from a pre-existent visceral pathology. The authorities took statements from the police officers involved in Gabriel's interrogation and transfer to hospital; Gabriel's wife, family and friends were not interviewed. The prosecutor ordered a new forensic examination in February 1998. The same pathologist who had done the autopsy of May 1996 carried out that examination, reiterating the conclusions of his autopsy and expressing the opinion that the bruising on the photograph had occurred post mortem.

The applicant alleged that his brother had died as a result of ill-treatment by the police. He also complained about the inadequacy of the medical care provided by the police to his brother following his arrest as well as of the ensuing investigation into his death. He further complained that his brother, in great pain and in need of care and support during his hospitalisation from 16 April to 3 May 1996, had been deprived of all contact with his family while police officers had been posted permanently in his ward. Lastly, he alleged that his brother's ill-treatment and death, as well as the authorities' refusal to launch a murder investigation into the incident, had been due to his Roma origin, in breach of Article 14 (prohibition of discrimination).

Article 2

Death of Gabriel Carabulea

The Court found it unacceptable that the applicant's brother had not had a medical examination, one of the fundamental safeguards against ill-treatment, upon being arrested on 13 April 1996. He had only been taken to see a doctor on 16 April and, despite having been found to be critically ill, he had only finally been transferred into intensive care on 17 April. Furthermore, the Government had provided no plausible explanation for the need to interrogate him in such circumstances. Nor indeed had the Government provided any convincing explanation for Gabriel's critical state on arrival at hospital on 16 April 1996 or for the injuries on his body. No explanation at all had been provided either for the bruising on his hip or the liver injury, which according to the Government's very own expert reports, had more than likely been the cause of death. There was no document to prove either that the bruising around the genitalia had occurred post mortem. The Government had even less convincingly established that he had died as a result of a pre-existing disease; on the contrary, it had accepted that he had died as a result of blunt force trauma. Moreover, the Court noted with concern that all of the medical examinations and consultations had been carried out in the presence of the police and that Gabriel's family had not been allowed any meaningful contact with him or with his doctors. The Court concluded that the authorities had not only failed to provide timely medical care to the applicant's brother but also any satisfactory explanation for the death of a perfectly healthy 27-year old man placed in police custody. It therefore held that there had been a violation of Article 2.

Inadequacy of the investigation into his death

The Court noted that the post mortem examinations had significant failings: no forensic photographs of the body or X-ray of the thorax had been taken. The descriptions in the reports had in general been incomplete, notably as concerned the blood clot and the pathological examination of the injuries and marks on the body, which had thus hindered any accurate analysis of their date or origin. The prosecutors in charge had limited both their investigations to collecting written statements from the various police officers involved. The new prosecutor in charge as from February 1997 had delayed ordering a new forensic examination for a year and, entirely basing his conclusions on its findings, had given a strikingly terse decision in March 1998. The Court therefore concluded that the authorities had failed to carry out an effective investigation into the circumstances surrounding Gabriel Carabulea's death, in further violation of Article 2.

Article 3

There was no doubt that the ill-treatment to which the applicant's brother had been subjected, apparently inflicted intentionally so as to obtain a confession, had been particularly cruel and severe since it had resulted in his death. The authorities' refusal to allow the family members to be with their relative prior to his death as well as to provide them with any information concerning his condition had also been excessively unfair and cruel. The Court therefore concluded that, taken as a whole, the treatment to which Gabriel Carabulea had been subjected had amounted to torture, in violation of Article 3. Referring to its findings under Article 2 as to the alleged inadequacy of the investigation, it found, on the same grounds, that there had been a further violation of Article 3.

Article 13

Referring to other similar cases against Romania in which the Court had found that any remedies available had been theoretical and illusory, it held that the applicant had also been denied an effective remedy in respect of the death of his brother, including any claim for compensation, in violation of Article 13.

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

Lopata v. Russia (no. 72250/01) (Importance 2) – 13 July 2010 – Violation of Article 3 (procedural) – Domestic authorities' failure to effectively investigate the applicant's complaints of ill-treatment during police custody – Violation of Article 6 § 3 (c) in conjunction with Article 6 § 1 – Infringement of the right to a fair trial on account of the use of the applicant's written confession, obtained in circumstances that had raised doubts as to its voluntary character, in the absence of legal assistance, together with an apparent lack of appropriate safeguards at the trial – Violation of Article 34 – Interference with the applicant's right of individual petition before the Court on account of the applicant's repeated questionings by State officials amounted to illicit pressure

The applicant is currently serving a nine-year prison sentence for murder. The applicant was arrested in August and September 2000 in connection with the murder of D. He submitted that he was ill-treated on both occasions in order to force him into making a confession. In particular, between 8 and 9 September 2000 he alleged that officers of Uchaly police station repeatedly beat, kicked and punched him, pulled his hands and feet back towards his spine and threatened to rape him with a truncheon. He was intermittently taken back to a cell, with the officers programming a television to switch on when the beatings were to resume. On 9 September he gave in and wrote out a confession. A few days later he was taken to a remand centre in Beloretsk and, on arrival, was not given a medical examination. To corroborate his allegations, he referred to statements by his lawyer, who he was eventually allowed to see on 12 September, and cellmates in the remand centre who attested to having seen cuts and bruises on his face and body. He was examined by a doctor on 14 September: the ensuing report noted his complaints about pain in the left ear but concluded that were no injuries to his body. On seeing his lawyer, he immediately retracted his confession, claiming that it had been obtained from him under duress. He repeated that claim both during the ensuing investigation into his complaints about ill-treatment and the trial against him. The accused police officers denied any accusations of torture. The prosecution authorities refused to bring criminal proceedings against the police officers in question. Another inquiry, launched in 2005, was also discontinued. The applicant was found guilty as charged in January 2001; his conviction was essentially based on his confession. His allegation that that confession was obtained through ill-treatment was once again dismissed. In January 2004, after bringing his application to the Court, a provincial official from the Federal Service for Execution of Sentences, tried to pressure the applicant to retract one of his complaints to the Court and threatened him with reprisals when he refused. He subsequently had two further visits from state officials who also questioned him about his application to the Court. After those visits, the applicant submitted that, transferred to premises with worse living conditions, he had to give up his prison job as a welder, and was threatened with criminal prosecution for making false statements. The applicant alleged that, as a consequence of the beatings, he suffered from pain in his kidneys and collar bone and went deaf in one ear.

The case notably concerned the authorities' intimidation of the applicant following his complaint to the Court about police brutality. The applicant also alleged that his complaint about ill-treatment had not been investigated effectively. He also complained that his conviction had been based on a confession made under duress and without a legal representative.

Article 3

The Court noted had serious reservations concerning the accuracy and reliability of the medical report of 14 September 2000 – which had been the basis of the decision to discontinue any further investigation into the applicant's allegations – and the way in which his medical examination had been conducted. Further, although the expert mentioned that the applicant had complained about pain in

the left ear, he had not considered it necessary to question the applicant about his symptoms and how they had come about, or to examine his ear. Moreover, despite concerns voiced by the applicant and his lawyer about the report, the expert had never been summoned for interview during the ensuing trial. Nor had the prosecutor in charge of the inquiry interviewed the police officers, the applicant, his lawyer, the remand centre medical staff or the applicant's cellmates. Although the trial court had later interviewed the applicant and some of the police officers, there had been serious contradictions in their statements. The Court held that both the inquiry and the trial had been undermined by shortcomings and discrepancies resulting in the applicant's allegations of ill-treatment not having been investigated effectively, in violation of Article 3. Given that failure to react to and investigate effectively the applicant's complaints, the evidence available prevented the Court from being able to find beyond all reasonable doubt that the applicant had been subjected to ill-treatment as alleged. Consequently, the Court could not find that there had been a violation of Article 3 in respect of the applicant's alleged ill-treatment while in police custody.

Article 6 §§ 1 and 3 (c)

There was no evidence that the applicant had waived his right to legal assistance. Furthermore, as soon as the applicant had been interviewed by his lawyer, he had immediately retracted his confession. Moreover, the trial and appeal courts disregarded the applicant's complaint that his confession had been obtained in the absence of legal assistance. Therefore, the use of his written confession obtained in circumstances which had raised doubts as to its voluntary character, in the absence of legal assistance, together with an apparent lack of appropriate safeguards at the trial, had rendered the applicant's trial unfair, in violation of Article 6 § 1 in conjunction with Article 6 § 3 (c).

Article 34

The Government denied that any pressure had been put on the applicant during the conversation and claimed that it had been aimed at obtaining information on his complaints so as to prepare the Government for the Strasbourg Court proceedings. However, it had not provided any documents, for example, a transcript of the conversation, which could have refuted or cast doubt on the applicant's submissions. Indeed, the Court found it peculiar that there had been a one-year gap between the provincial official's visit in 2004 and the resulting investigative steps taken in the additional inquiry of 2005. In any event, there was nothing in the case file which could link the domestic inquiry to the applicant's questioning by the official. Although there was no proof in the case file to support the applicant's submissions concerning the deterioration of his conditions of detention, the Court concluded that the applicant could well have had good reason to have felt intimidated by his conversation with the official and his ensuing repeated questioning by State officials, as well as legitimate fear of reprisals on account of his application to the Court. Accordingly, he had been subjected to illicit pressure, amounting to undue interference with his right of individual petition, meaning that Russia had failed to comply with its obligations under Article 34.

Parnov v. Moldova (no. 35208/06) (Importance 3) – 13 July 2010 – Violations of Article 3 (substantive and procedural) – (i) Ill-treatment in police custody – (ii) Lack of an effective investigation – Violation of Article 13 – Lack of an effective remedy

The applicant alleged that he had been subjected to police brutality in March 2005, when he was arrested and detained on charges of possession and sale of marijuana, and complained that the investigation into that allegation had been inadequate. He was acquitted of the charges against him in February 2007.

In the light of the evidence submitted to its attention, the Court was not convinced that all of the injuries on the applicant's body were sustained during his arrest and were due to the intensity of his resistance. Nonetheless, even assuming that that was the case, the Court noted that upon his arrival at the police station the applicant was not taken for a medical examination before being taken into custody. In those circumstances, and given the burden on the State to provide a plausible explanation for injuries sustained by a person in custody, the Court concluded that the Government failed to satisfactorily establish that the applicant's injuries were wholly caused otherwise than by ill-treatment while in police custody. Accordingly, there had been a violation of Article 3 of the Convention in that the applicant was subjected to inhuman and degrading treatment. Furthermore the Court noted that it does not consider that the domestic authorities did not fulfill their obligation to investigate the applicant's complaints of ill-treatment. Accordingly, there had also been a violation of Article 3 under its procedural limb. The Court further noted that it had not been shown that effective remedies existed which would have enabled the applicant to claim compensation for the ill-treatment suffered at the hands of the police. There had therefore been a violation of Article 13 in conjunction with Article 3.

Karagöz and Others v. Turkey (nos.14352/05, 38484/05 and 38513/05) (Importance 3) – 13 July 2010 – Violations of Article 3 (substantive and procedural) – (i) Torture in police custody – (ii) Lack of an effective investigation – Violation of Article 13 – Lack of an effective remedy (case of Çadırcı)

Arrested in 1997 on suspicion of involvement in terrorist organisations, the applicants alleged that they had been tortured while in police custody at Istanbul Security Headquarters and that the ensuing criminal proceedings against the police officers concerned had been ineffective.

As to the seriousness of the treatment in question, the Court reiterated that, under its case-law in this sphere, in order to determine whether a particular form of ill-treatment should be qualified as torture, it must have regard to the distinction, embodied in Article 3, between this notion and that of inhuman or degrading treatment. It appears that it was the intention that the Convention should, by means of this distinction, attach a special stigma to deliberate inhuman treatment causing very serious and cruel suffering. In this connection, the Court considered that the treatment complained of was inflicted intentionally by the police officers with the purpose of extracting confessions while the applicants were in custody. In these circumstances, the Court found that those act were particularly serious and cruel and capable of causing severe pain and suffering. It therefore concluded that this ill-treatment amounted to torture within the meaning of Article 3. There had therefore been a substantive violation of Article 3. The Court reiterated that, in a number of similar cases where prosecutions have been time-barred following lengthy proceedings, it has noted that the criminal law system has proved to be far from rigorous and lacking in the dissuasive effect capable of ensuring the effective prevention of unlawful acts such as those complained of by the applicants (see *Müdet Kömürcü*; *Salmanoğlu and Polattaş v. Turkey*; *Erdoğan Yılmaz and Others v. Turkey*). Having examined the documentary evidence submitted by the parties, the Court observed that the Turkish criminal-law system was applied in the same manner in the instant cases. The Court therefore concluded that the criminal proceedings brought against the accused police officers in all three cases were inadequate. Accordingly, there had been a procedural violation of Article 3. In the *Çadırcı* case, the applicant also asserted that he had been denied the right to seek compensation before the civil courts because the criminal proceedings against the police officers had been dismissed for statutory time limitations. The Court reiterated its conclusion in a number of previous cases that the civil-remedies were inoperative in similar situations, because they did not enable the applicants to obtain compensation for the alleged violations (see, among others, *Batı and Others*). The Court found no reason in the instant case to depart from its earlier conclusion. There had accordingly been a violation of Article 13.

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

Dbouba v. Turkey (no. 15916/09) (Importance 2) – 13 July 2010 – Violation of Article 3 – There would be a violation of Article 3 if the applicant were to be removed to Tunisia on account of the risk of being ill-treated due to his affiliation with Ennahda – Violation of Article 13 – Lack of an effective remedy – Violation of Article 5 §§ 1, 2, 4 and 5 – (i) Unlawfulness of detention – (ii) Failure to inform the applicant about the reasons of his detention – (iii) Lack of an effective remedy to obtain judicial review of the lawfulness of his detention – (iv) Lack of adequate compensation

The applicant is a Tunisian national. An active sympathiser of the Islamic Tendency Movement, now known as Ennahda, he left Tunisia in 1990 due to persecution by security forces. He is currently being held in the Gaziosmanpaşa Foreigners' Admission and Accommodation Centre in Kırkareli and has criminal proceedings pending against him for membership of Al-Qaeda. He alleged that his detention is unlawful and that, if extradited to his country of origin, he would be at real risk of torture and ill-treatment due to his affiliation with Ennahda.

The Court noted that it was not persuaded that the national authorities examined the applicant's claims and took into account the requirements of Article 3. It fell to the branch office of the UNHCR to interview the applicant about the background to his asylum request and to evaluate the risk to which he would be exposed on the ground of his political opinions. The Court for its part had to give due weight to the UNHCR's conclusion on the applicant's claim regarding the risk he would face if he were to be removed to Tunisia In the light of the UNHCR's assessment, the Court found that there are substantial grounds for accepting that the applicant risks a violation of his rights under Article 3, if returned to his country of origin. As to the applicant's complaint under Article 13, the Court noted that it had already found that the applicant's allegations regarding the risk of ill-treatment and death in Tunisia had not been subjected to a meaningful examination by the national authorities. Moreover, the Government failed to demonstrate that the applicant had been served with the decision rejecting his temporary asylum claim and the deportation order. In these circumstances, the Court was led to conclude that the applicant was not afforded an effective and accessible remedy in relation to his allegations that he risked ill-treatment and death in Tunisia. Consequently, the Court concluded that

there would be a violation of Article 3 of the Convention if the applicant were to be removed to Tunisia. It further concluded that there has been a violation of Article 13 of the Convention.

Concerning claims under Article 5, the Court reiterated that it has already examined the same grievance in the case of *Abdolkhani and Karimnia*. It found that the placement of the applicants in the Kırklareli Foreigners' Admission and Accommodation Centre in that case constituted a deprivation of liberty and concluded that, in the absence of clear legal provisions establishing the procedure for ordering and extending detention with a view to deportation and setting time-limits for such detention, the deprivation of liberty to which the applicants were subjected was not "lawful" for the purposes of Article 5. The Court found no particular circumstances which would require it to depart from this previous case-law. There had therefore been a violation of Article 5 § 1 of the Convention. The Court further observed that the Government did not make any submission relevant to the present case demonstrating that the applicant had had at his disposal any procedure by which the lawfulness of his detention could have been examined by a court and which allowed him to claim compensation for the violation of his rights enshrined under Article 5 §§ 1, 2 and 4. Moreover, the Court has already found that the applicant was not informed of the reasons for the deprivation of his liberty from 25 January 2008 onwards. Accordingly, the Court concluded that the Turkish legal system did not provide the applicant with a remedy whereby he could obtain judicial review of the lawfulness of his detention In the light of the above, the Court concluded that there had been a violation of Article 5 §§ 2, 4 and 5.

Abdulazhon Isakov v. Russia (no. 14049/08) and Yuldashev v. Russia (no. 1248/09) (Importance 3) – 8 July 2010 – Violation of Article 3 – The applicants' forcible return to Uzbekistan would give rise to a violation of Article 3 as they would face a serious risk of being subjected to torture or ill-treatment there – Violation of Article 5 §§ 1 and 4 – Unlawfulness of detention – Lack of an effective remedy to challenge the above mentioned detention – Violation of Article 13 in conjunction with Article 3 – Lack of an effective remedy

The applicants are Uzbek nationals. They were arrested in Russia and placed in detention pending extradition in March 2008 and October 2007, respectively; they have both since been released. They alleged that their detention pending extradition had been unlawful and that, if extradited to their country of origin, where they are on a wanted list for suspected involvement in extremist movements, they would be at real risk of politically-motivated persecution, torture and/or ill-treatment.

As to the applicants' personal situation, the Court observed that the applicants were charged with politically motivated crimes. Given that arrest warrants were issued in respect of the applicants, it was most likely that they would be directly placed in custody after their extradition and would therefore run a serious risk of ill-treatment. As to the Government's argument that assurances were obtained from the Uzbek authorities, firstly, the Government did not submit a copy of any diplomatic assurances indicating that the applicants would not be subjected to torture or ill-treatment; secondly, the Court had already cautioned against reliance on diplomatic assurances against torture from a State where torture is endemic or persistent. Given that the practice of torture in Uzbekistan is described by reputable international experts as systematic, the Court would not be persuaded that assurances from the Uzbek authorities could offer a reliable guarantee against the risk of ill-treatment. Accordingly, the applicants' forcible return to Uzbekistan would give rise to a violation of Article 3 as they would face a serious risk of being subjected to torture or inhuman or degrading treatment there.

The Court noted that, despite the fact that no requests for extension of their detentions were lodged, the national system failed to protect the applicants from arbitrary detention, and their detentions could not be considered "lawful" for the purposes of Article 5 § 1, as their detentions have been extended. The Court further noted that the applicants did not have at their disposal any procedure through which the lawfulness of their detention could have been examined by a court. There had therefore been a violation of Article 5 § 4. The Court concluded that in the circumstances of the present case there had been a violation of Article 13 of the Convention because the applicant was not afforded an effective and accessible remedy in relation to his complaint under Article 3.

- **Right to liberty and security**

Clift v. the United Kingdom (no. 7205/07) (Importance 1) – 13 July 2010 – Violation of Article 5 in conjunction with Article 14 – Domestic authorities' failure to provide an objective justification to demonstrate the different treatment concerning the early release scheme of prisoners serving fixed-term sentences of less than 15 years and those serving life sentences, and those, as the applicant, serving fixed-term sentences of imprisonment of 15 years or more

The case concerned the difference in treatment as regards the early release of prisoners depending on the length of the sentence originally imposed. The applicant was sentenced to 18 years'

imprisonment in April 1994 for serious crimes including attempted murder. In March 2002 he became eligible for release on parole and the Parole Board recommended his release. Under the legislation applicable at the time, prisoners serving fixed-term sentences of imprisonment of 15 years or more were required to secure, in addition to a positive recommendation from the Parole Board, the approval of the Secretary of State for early release. However, prisoners serving fixed-term sentences of less than 15 years and those serving life sentences were entitled to early release upon the positive recommendation of the Parole Board only. The Secretary of State rejected the Parole Board's recommendation in Mr Clift's case, finding that to release him would pose an unacceptable risk to the public. The applicant was finally released on licence in March 2004, after the Secretary of State approved release following a further positive recommendation by the Parole Board at that time. In the meantime, the applicant brought judicial review proceedings in respect of the Secretary of State's decision to refuse his early release in 2002. In June 2003, the divisional court dismissed the claim. Mr Clift's appeal was subsequently dismissed by the court of appeal and, in December 2006, by the House of Lords. Their Lordships did not find the difference in treatment to be the result of Mr Clift's "status", such as to fall within the prohibition on discrimination in the Convention.

The applicant complained that his continued imprisonment following the recommendation of the Parole Board that he be released on licence violated his rights under Article 5 in conjunction with Article 14 on account of the difference in treatment compared with prisoners serving fixed-term sentences of less than 15 years or life sentences.

The Court underlined that the protection under Article 14 of the Convention was not limited to different treatment based on characteristics which were personal in the sense of being innate or inherent. Moreover, the term "other status" had been given a wide meaning in the Court's case-law. The Court had held in another case that differences in treatment between prisoners in relation to parole did not confer to them "other status" where the different treatment was based on the gravity of the offence. However, the applicant did not allege a difference of treatment based on the gravity of the offence he had committed, but one based on his position as a prisoner serving a fixed-term sentence of more than 15 years. While sentence length bore some relationship to the perceived gravity of the offence, a number of other factors could also be relevant, including the sentencing judge's assessment of the risk posed by the applicant to the public. Where an early release scheme applied differently to prisoners depending on the length of their sentences, there was a risk that, unless objectively justified, it would run counter to the need to ensure protection of the individual from arbitrary detention under Article 5. The Court concluded that the applicant did enjoy "other status" for the purposes of Article 14.

In order for an issue to arise under Article 14 there had to be a difference in the treatment of people in analogous or relevantly similar – but not necessarily identical – situations. The Court noted that the failure to approve the early release of a prisoner was not intended to constitute further punishment but to reflect the assessment that the prisoner posed an unacceptable risk upon release. As regards the risk assessment of a prisoner eligible for early release, no distinction could be drawn between long-term prisoners serving less than 15 years, long-term prisoners serving fifteen years or more and life prisoners. The methods of assessing risk were in principle the same for all categories of prisoners. The Court therefore concluded that the applicant could claim to be in an analogous position to long-term prisoners serving less than 15 years and life prisoners. The Court accepted that differences in treatment between groups of prisoners might be justified in principle if they pursued the legitimate aim of protecting the public, provided that it could be demonstrated that those to whom more stringent early release regimes applied posed a higher risk to the public upon release. The imposition of a fixed-term sentence rather than a life sentence appeared to indicate that the applicant posed a lower and not a higher risk when released. It was therefore difficult to see any objective justification for a system in which prisoners serving fixed-term sentences of 15 years or more were subject to more stringent conditions for early release than life prisoners. As regards the difference in treatment between those serving more and those serving less than 15 years, the Court accepted that such a distinction might not automatically be discriminatory. However, any distinction in treatment was only justified where it achieved the legitimate aim pursued. In the applicant's case, the United Kingdom Government had failed to demonstrate how the approval of the Secretary of State required for certain groups of prisoners addressed concerns for public security. In those circumstances, the Court considered that the early release scheme to which the applicant had been subject lacked objective justification. The Court therefore unanimously concluded that there had been a violation of Article 5 in conjunction with Article 14.

D.B. v. Turkey (no 33526/08) (Importance 2) – 13 July 2010 – Violation of Article 5 §§ 1 and 4 Unlawfulness of detention – Lack of an effective remedy to obtain speedy judicial review of the lawfulness of the detention – Violation of Article 34 – Domestic authorities' interference with the applicant's right to representation before the Court

The applicant is an Iranian national, currently in Sweden. He was an active member of the Communist Worker's Party of Iran and the Freedom and Equality Seeking Students Movement in Iran and was part of the board of editors of a well-known student journal. He submitted that numerous students involved in similar activities were arrested and imprisoned in 2007. In 2008, he arrived illegally in Turkey, where he was arrested by Turkish security forces and placed in the Edirne Foreigners' Admission and Accommodation Centre. In July 2008, his application for temporary asylum was rejected on the grounds of his ties with another Iranian national who presented a risk for national security. The applicant was informed that, unless he lodged an objection within two days, he would be deported to his home country. He lodged such an objection, requesting that the Turkish authorities contact the UNHCR, his lawyer and a non-governmental organisation, in order to receive documents regarding his activities in Iran. In September 2008 his objection was rejected by the Ministry of the Interior, which considered that, due to the applicant's militant background, there was a real risk that he would be taken to the United States of America where he would undergo military training and that he would be part of military operations targeting Iran. In March 2009 the applicant was granted refugee status under the UNHCR's mandate. The applicant alleged that in both Foreigners' Admission and Accommodation Centres in which he was held, he had been kept in solitary confinement. The Turkish Government maintained that in the Foreigners' Admission and Accommodation Centres there were no prison cells or sections where the applicant could be kept in solitary confinement; neither was there any instruction to that effect. In April 2009, the applicant's lawyer brought administrative proceedings asking for his release, submitting that the Government of Sweden had accepted the applicant within the refugee quota for Sweden. His request was rejected by the Ankara Administrative Court, a decision upheld in June 2009 by the same court. The applicant's lawyer renewed his request before the Ankara Administrative Court and in November 2009, the latter ordered the applicant's release. The same month the applicant escaped from the Kırklareli Centre, but then surrendered to the police in order to be released, which was finally done in February 2010. The applicant left Turkey in March 2010 and arrived in Sweden where he was granted refugee status.

The applicant alleged that his detention pending extradition in Turkey had been unlawful, and that he did not have access to an effective remedy by which he could have challenged it. He further complained, in particular, of having been held in solitary confinement for eight months during his detention pending extradition.

The application was lodged with the Court in July 2008. The President of the Chamber decided, in the interests of the parties and the proper conduct of the proceedings before the Court, to indicate to Turkey, under Rule 39 of the Rules of Court, that the applicant should not be deported to Iran until 29 August 2008. His representative was also asked to submit a power of attorney authorising him to lodge an application with the Court on behalf of the applicant. However, the applicant's lawyer was prevented by the Edirne Foreigners' Admission and Accommodation Centre administration from visiting his client on grounds that the lawyer did not have a power of attorney to meet the applicant. The Chamber President prolonged the interim measure until 24 October 2008 and requested Turkey to allow, before 3 October 2008, the applicant's lawyer to have access to him. On 8 October 2008, the Court's interim measure was extended until further notice. Finally on 21 October 2008, a lawyer was allowed to meet the applicant. In view of those circumstances, the Court raised the question of Turkey's compliance with its obligation under Article 34.

Article 5 § 1

The Court had already examined the same grievance in another case, where it had found that the placement of those applicants in the Kırklareli Foreigners' Admission and Accommodation Centre had constituted a deprivation of liberty. It had concluded that, in the absence of clear legal provisions establishing the procedure for ordering and extending detention with a view to deportation and setting time-limits for such detention, the applicants' deprivation of liberty had been unlawful under Article 5. The Court observed that the circumstances in the applicant's case were almost the same. Moreover, by submitting that the applicant had escaped from the Kırklareli Centre, the Government implicitly accepted that he had been deprived of his liberty. There had therefore been a violation of Article 5 § 1.

Article 5 § 4

The Court noted in particular that the applicant's lawyer had requested the annulment of the decision not to release the applicant on 26 June 2009 and that Ankara Administrative Court's decision ordering D.B.'s release was only adopted on 19 November 2009. Having regard in particular to the time which elapsed between these dates, the Court found that the judicial review could not be regarded as a "speedy" reply to the applicant's petition. The Turkish legal system had not provided the applicant with a remedy whereby he could obtain speedy judicial review of the lawfulness of his detention. There had therefore been a violation of Article 5 § 4.

Article 34

The Court underlined that the Government had failed to comply with the interim measure indicated under Rule 39 of the Rules of Court. It had further to determine whether there were objective impediments which prevented the Turkish Government from complying with the interim measure in due time. In this connection, the Court could not accept the argument put forward by the authorities to the effect that the applicant could not meet a lawyer in order to provide a power of attorney for the Court because that lawyer did not have a power of attorney to meet the applicant in the first place. Because of that initial administrative obtuseness, the Court considered that the application had been put in jeopardy, since the applicant could not sign a power of attorney and provide more detailed information concerning the alleged risks that he would face in Iran. The Court concluded that the applicant's effective representation before the Court had been seriously hampered. In the Court's view, the fact that he had subsequently been able to meet a lawyer, sign the authority form and provide the information regarding his situation in Iran had not altered the lack of timely action by the authorities, which had been incompatible with Turkey's obligations. There had therefore been a violation of Article 34.

Ahmed v. Romania (no. 34621/03) (Importance 2) – 13 July 2010 – Violation of Article 5 § 1 – Unlawfulness of detention – Violation of Article 1 of Protocol No. 7 – Lack of effective procedural safeguards concerning the applicant's deportation order

The applicant's current place of residence is unclear. In March 2003 an order by the public prosecutor of Bucharest banned him from Romania for a period of 10 years. He was provisionally placed in a transit centre and then deported to Iraq.

The applicant complained that he had been unlawfully deprived of his liberty and that his deportation had not been accompanied by the requisite procedural safeguards.

The Court observed that the applicant has been detained more than six months in the transit centre in view of deportation. It further noted that the prolongation of above mentioned detention was arbitrary and unlawful. Accordingly there had been a violation of Article 5 § 1. The Court further noted that the applicant could not enjoy his rights provided by Article 1 of Protocol No. 7 because of the invisibility of the legislation in the question. Therefore there had been a violation of alleged Article.

- **Right to fair trial/ Length of proceedings**

Tendam v. Spain (no. 25720/05) (Importance 1) – 13 July 2010 – Violation of Article 6 § 2 – Infringement of the right to be presumed innocent on account of the statements of the Ministers of Justice and Interior Affairs – Violation of Article 1 of Protocol No. 1 – Loss of property confiscated from the applicant during the criminal proceedings

In 1986 the applicant was prosecuted for theft and handling stolen goods but was acquitted.

He complained about the Spanish authorities' refusal to grant him compensation for his detention during the criminal proceedings against him for theft. He also complained about the loss of and damage to property that had been confiscated from him in connection with the charge of handling stolen goods.

The Court noted that the statements of the Ministers of Justice and Interior affairs were confirmed by the domestic courts. The domestic authorities have failed to respect the applicant's right to be presumed innocent before the domestic courts' decisions. Therefore there had been a violation of Article 6 § 2. The Court further noted that the applicant has lost his property which had been seized. The domestic courts have never examined seriously the applicant's claims in view of receiving an adequate protection for the seized properties. Accordingly there had been a violation of Article 1 of Protocol No. 1.

Pocius v. Lithuania and Uukauskas v. Lithuania (nos. 35601/04 and 16965/04) (Importance 2) – 6 July 2010 – Violation of Article 6 § 1 – Domestic courts' failure to comply with the requirement of adversarial proceedings, on account of the failure to provide the applicants with the classified evidence presented by the police

The two cases concern complaints about the Lithuanian courts' decisions in their cases, based on classified evidence presented by the police and never disclosed to them.

Both applicants are Lithuanian nationals. At the time of the events they held firearms licenses which were revoked by the Lithuanian authorities, in May 2002 and April 2003 respectively. The reason put

forth for the licence withdrawal was that both the applicants were listed in the operational records file which contained information gathered by law-enforcement officers about people potentially considered a danger to society. The applicants were further asked by the police to hand in their arms in exchange for money. They challenged in court the entry of their names into those operational records and asked for their removal from that database. The courts rejected their requests, basing their decisions on the evidence presented by the police, which they found to be classified and, hence, impossible to disclose to the applicants.

The applicants complained about the proceedings before the courts having been unfair, in particular as a result of them not having had access to the evidence on which the courts' decisions had been based.

The Court recalled that, in court proceedings, each party had to be given a reasonable opportunity to present their case under conditions which placed neither of them at a disadvantage vis-à-vis each other. Further, both parties needed to have access to the presented evidence and/or observations by other party. The entitlement to disclose evidence, however, was not an absolute right. In some cases, it was legitimate to withhold evidence from the defence in order to preserve the fundamental rights of another individual or to safeguard an important public interest. That said, only strictly necessary measures were permissible. While the Court accepted the Lithuanian Government's position that documents constituting State secrets might be disclosed only to those with relevant authorisation, it noted that Lithuanian law and judicial practice provided that such information could not be used as evidence in court against anyone, unless it had been declassified. In addition, it could not be the only evidence on which courts based their decisions. The data in the operational files in respect of both the applicants had been of decisive importance for their cases given that the courts had based their decisions primarily on the information contained in them. Had the applicants known the content of those records they might have been able to persuade the judges that the police had acted without good reason and thus to have their names removed from those files. The judges, however, had examined behind closed door those records, which had been presented by the police and had constituted the only evidence of the applicants' alleged danger to society. Accordingly, the decision-making process had not complied with the requirement of adversarial proceedings or equality of arms and had not incorporated adequate safeguards to protect the interests of the applicants. There had, therefore, been a violation of Article 6 § 1.

Rausch v. Luxembourg (no. 29733/08) (Importance 3) – Violation of Article 6 – Excessive length of proceedings (over eleven years and seven months) at one level of jurisdiction

The applicant is a farmer. In 1998 he lodged a criminal complaint as a civil party against his neighbour for allegedly stealing a head of cattle and fraudulently changing its identification number. Between 2000 and 2007 the Pre-Trial Division of the Diekirch District Court made three orders sending the case for trial but each of them was annulled. In 2008 the judges found that the prosecution had become time-barred. That decision was quashed, after which the Pre-Trial Division of the Court of Appeal decided that the prosecution was not time-barred and remitted the case to the Criminal Division of the District Court, where the proceedings are still pending.

The applicant complained about the excessive length of the proceedings, which had already lasted for over 11 years and seven months at one level of jurisdiction.

The Government had argued that the application had to be declared inadmissible because, before lodging it, the applicant had not brought proceedings before the domestic courts to establish the liability of the Luxembourg State (in accordance with the admissibility conditions under Article 35). The Court referred to a previous judgment in which it had found that the action for State liability on account of shortcomings in judicial services (Law of 1 September 1988), on which the Government had relied, constituted an effective remedy that had to be used before lodging an application with it to complain about the length of proceedings in Luxembourg. However, the Court had also stated that this remedy was "effective" only since 1 August 2008, after the applicant lodged his application. He could not therefore be penalised for not using that remedy. The Government admitted that the length of the proceedings in question had not been reasonable. In view of the non-complex nature of the case and in accordance with its case-law, the Court reached the same conclusion. It further noted with great concern that this was not an isolated case, because it had found a violation of Article 6 § 1 on several occasions in similar cases raising "reasonable time" issues. It could not but stress that States had to find the sufficient means to secure to everyone the right to obtain a final decision within a reasonable time. The Court accordingly found that there had been a violation of Article 6 § 1.

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

Kuric and Others v. Slovenia (no. 26828/06) (Importance 1) – Violation of Article 8 – Domestic authorities' failure to comply with Constitutional Court's decisions concerning certain "erased" persons – Violation of Article 13 – Lack of an effective remedy

The case concerned the applicants' complaints that the Slovenian authorities prevented them from acquiring citizenship of the newly-established Slovenian State in 1991, and/or from preserving their status as permanent residents, as a result of which they have faced almost 20 years of extreme hardship. The 11 applicants belong to a group of people known as the "erased": mainly former citizens of the Socialist Federal Republic of Yugoslavia (the "SFRY") who had their permanent residence in Slovenia. Following the declaration of independence by Slovenia in 1991, they either did not request Slovenian citizenship within the prescribed time-limit or their request was not granted. As a result, their names were "erased" from the Slovenian Register of Permanent Residents on 26 February 1992. At the time, approximately 200,000 Slovenian residents, including the applicants, were citizens of other former SFRY republics. According to the official data, 171,132 applied for and were granted citizenship of the new Slovenian State before the deadline, which was six months from the date of entry into force of the Citizenship Act, namely by 25 December 1991; about 11,000 others left Slovenia. People who either failed to apply, or whose requests were not granted, became aliens. On or shortly after 26 February 1992, the municipal authorities removed them from the Register of Permanent Residents and, according to the Slovenian Government, transferred them into the Register of Aliens which was for people without a residence permit. According to the Government, people were informed about the change through the media, notices, and were even contacted personally in some municipalities. The applicants denied ever receiving notification of their names being removed from the first register and being entered into the second one. They only subsequently learned that they had become aliens when, for example, they tried to renew their personal documents.

According to the applicants, the deletion of their names from the Register of Permanent Residents had serious and enduring negative consequences. Some were evicted from their apartments, could not work or travel, lost all their personal possessions, including their documents, and lived for years on end in shelters and municipal parks with serious detrimental consequences for their health. Others were detained and expelled from Slovenia. In 1999 the Constitutional Court found unconstitutional the provisions of the law applicable as from the day of "the erasure" (the Aliens Act) as it did not regulate the status of the "erased" who had not received an official notification about the change of their status. Following this Constitutional Court's decision, the Legal Status Act was passed in order to regulate the situation of "the erased". However, in 2003, the Constitutional Court reiterated its 1999 ruling. It further held that the Legal Status Act was unconstitutional, in particular since it failed to grant "the erased" retroactive permanent residence permits and to regulate the situation of those deported. According to the official data from 2002, the number of former SFRY citizens who lost their permanent residence status on 26 February 1992 amounted to 18,305, of whom approximately 2,400 had been refused citizenship. Gradually that number diminished, as some people voluntarily left Slovenia and others were granted residence permits following the above mentioned Constitutional Court decisions. At present it is believed that there are potentially several thousand people still in the category of the "erased".

The applicants complained in particular that they were arbitrarily deprived of the possibility of acquiring citizenship of the newly-established Slovenian State in 1991 and/or of preserving their status as permanent residents.

Article 8

The Court noted that the applicants' names were "erased" from the register on 26 February 1992 when the Aliens Act had become applicable. The applicants, who had all spent a substantial part of their lives in Slovenia, had developed there personal, social, cultural, linguistic and economic relations that made up the private life of every human being. Therefore, at the relevant time, they had enjoyed a private life in Slovenia within the meaning of Article 8 § 1 of the Convention. It further found that the Slovenian authorities had persistently refused to regulate the applicants' situation in line with the Constitutional Court's decisions. In particular, they had failed to pass appropriate legislation and to issue permanent residence permits to individual applicants and had thus interfered with their rights to respect for their private and/or family life, especially where the applicants were stateless. Examining further whether the interference was justified, the Court observed that the Slovenian Constitutional Court had declared section 81 of the Act unconstitutional since it had not set out the conditions for acquisition of permanent residence for people who were citizens of other former SFRY republics, held permanent residence in Slovenia, lived on the Slovenian territory at the relevant time, and had either failed to apply for Slovenian citizenship or had their requests not granted. In addition, the other law regulating the status of those people, the Legal Status Act, had also been declared unconstitutional as

it had failed to grant "the erased" retroactive permanent residence permits and to regulate the situation of those deported. A consequence of the unregulated legal status, according to the Constitutional Court, had been the transfer of the applicants' names into the register of aliens, without any notification or legal bases for that transfer. The Court saw no reason for departing from the Constitutional Court's decisions. It found that the unlawful situation, resulting from the lack of legal basis at the moment of the entry into force of the Convention in respect of Slovenia, had persisted for more than 15 years afterwards for the majority of the applicants given that the legislative and administrative authorities had not complied with the judicial decisions. The Court finally noted that on 8 March 2010 amendments to the Legal Status Act were passed by Parliament, however, at the time it considered this judgment those amendments had not yet entered into force. Accordingly, there had been a violation of Article 8.

Article 13

The Court reiterated that in spite of the legislative and administrative endeavours made in order to comply with the Constitutional Court's leading decisions of 1999 and 2003, those decisions had not yet been fully implemented. Consequently, Slovenia had not shown that the remedies at the applicants' disposal could be regarded as effective. Accordingly, there had been a violation of Article 13.

Grönmark v. Finland (no. 17038/04) (Importance 3) and Backlund v. Finland (no. 36498/05) (Importance 2) – Violation of Article 8 – Interference with the applicants' right to respect for family life on account of domestic courts' application of a rigid time-limit for the exercise of paternity proceedings

The applicants' requests to have their respective fathers' paternity established were dismissed by the national courts on the basis of the 1976 Paternity Act. On 1 October 1976 the Paternity Act came into force. The transitional provisions of the Act stated that paternity proceedings with regard to a child born before the entry into force of the Act had to be initiated within five years, that is, before 1 October 1981. No claim could be examined after the death of the father. When the first applicant's father R.J. died in 1999, Maarit Grönmark found out that he had never been legally recognised as her father. In the civil proceedings which she brought in October 2000 against R.J's legal heir to have R.J's paternity confirmed, the district court ordered DNA tests, which established with 99.8% certainty that R.J was her father. However, the court dismissed Ms Grönmark's claim because she had brought it after the expiry of the time-limit. The Supreme Court upheld that decision in November 2003. In May 2002, Sven Backlund applied to the district court to establish the paternity of N.S., the man he and his mother had always considered to be his father and who had been placed under guardianship in 2000. DNA tests ordered by the court established with 99.4% certainty that N.S was Mr Backlund's biological father. In April 2003, the court ruled that Mr Backlund's claim was time-barred. He appealed, claiming in particular that a court decision would be the only way to have the paternity of his biological father legally recognised, as, given his state of health, N.S. could no longer make a legally valid acknowledgement of his paternity. The appeal was dismissed and the Supreme Court eventually refused leave to appeal in April 2005.

Both applicants complained that the time-limit for establishing the paternity of children born before the entry into force of the Paternity Act gave rise to a violation of their rights, in particular under Article 8, as they could not have their fathers' paternity legally confirmed, despite conclusive DNA tests.

The Court first recalled that it had accepted in other cases that the introduction of a time-limit for the institution of paternity proceedings was justified, in that it ensured legal certainty and finality in family relations. It further observed that there was no uniform approach to judicial recognition of paternity in European States, but there was a tendency towards a greater protection of the right of the child to have her or his paternal affiliation established. While the Finnish Paternity Act adequately secured the interests of people born out of wedlock who had been acknowledged by their fathers, as well as those born after the Act's entry into force, and those born before who had been able to initiate paternity proceedings within the time-limit, it did not make any allowance for people in the applicants' situation. Once Ms Grönmark had become an adult, the limitation period for bringing paternity proceedings had already elapsed. She was thus unable to have the legal status of her biological father established, even though she had not had any realistic opportunity to go to court during the relevant period. The Court could accept that Mr Backlund, as an adult, should have brought those proceedings during the limitation period. However, the Court had difficulties in accepting the inflexible limitation period with time running irrespective of a child's ability to provide reliable evidence. Moreover, the Court found it difficult to accept that the national authorities had allowed the legal constraints to override biological facts by relying on the absolute nature of the time-limit even though the applicants had put forward conclusive evidence through DNA tests. In addition, national legislation did not provide any alternative means of redress, as the time-limit could not be restored by seeking extraordinary remedies. Nor had

the domestic courts agreed to any exceptions to the application of the time-limit in question except in one exceptional case. It was clear from the Finnish Supreme Court's judgment in Ms Grönmark's case that the general interest and the interests both of R.J. and his family were accorded greater weight than the applicant's right to have her origins legally confirmed. In Mr Backlund's case, the domestic courts had not made any attempt to balance the competing interests. The Court considered that such a radical restriction of the right to institute proceedings for the judicial determination of paternity was not proportionate to the aim of ensuring legal certainty. Applying a rigid time-limit for the exercise of paternity proceedings, regardless of the circumstances of an individual case impaired the very essence of the right to respect for one's private life. The Court therefore unanimously held that there had been a violation of Article 8.

- **Freedom of expression**

Gözel and Özer v. Turkey (no. 43453/04 et 31098/05) (Importance 2) – Violation of Article 10 – Infringement of the applicants' right to impart information on account of domestic courts' virtually automatic convictions of persons of the media for publication of texts by illegal organisations – Violation of Article 6 § 1 (case Özer) – Failure to provide the applicant with the opinion of the Principal Public Prosecutor at the Court of Cassation

The applicants are the owner and editor of the monthly magazine *Maya* and the publisher and editor of the monthly *Yeni Dünya İçin Çağrı*. Both magazines are based in Istanbul. In February 2003 an article entitled "Imminent war in Middle East threatens Turkish Bourgeoisie!" was published in *Maya*. It contained a statement by the central committee of an illegal organisation, the Marxist-Leninist/Turkish Communist Party, concerning hunger strikes by prisoners, about 100 of whom had died as a result, following violent clashes in 2000 with security forces, in which officers and prisoners had been killed and wounded. Ms Gözel was charged with "propaganda through the medium of the press against the indivisible unity of the State, and publication of a statement by an illegal armed organisation", two offences under the Prevention of Terrorism Act ("Law no. 3713"). She was acquitted of the first offence but was fined for the second. In addition, the publication of her magazine was suspended for one week on the ground that it had conveyed the views of an illegal organisation. That decision was upheld by the Court of Cassation.

In June 2002 an article entitled "The Great Workers' Resistance of 15 and 16 June and the Revolutionary Movement in Turkey" was published in the magazine *Yeni Dünya İçin Çağrı*. The article, whose author remained anonymous, concerned peaceful demonstrations by workers on 15 and 16 June 1971. It particularly looked at the role of left-wing movements in those demonstrations, focussing on the leading contribution of Ibrahim Kaypakkaya, founder of the party TKP/ML who, according to the article, had efficiently guided the Marxist movement in Turkey. The magazine also published a statement by eight individuals who were in custody in connection with criminal proceedings against them for belonging to illegal organisations, under the title "To our People". The prisoners stated that they had ceased their hunger strike in protest about F-type prisons, but that they would pursue their resistance. Mr Özer was sentenced to a fine and the closure of the monthly magazine was ordered for two weeks, on the ground that the aim of the offence had been to undermine national security. An appeal by the applicant was dismissed by the Court of Cassation.

The applicants complained about their conviction for publishing what the Turkish courts considered to be statements made by illegal organisations and, in the case of Ms Gözel, about the ban on the publication of her monthly magazine. Mr Özer further complained that the opinion of the Principal Public Prosecutor at the Court of Cassation had not been communicated to him, and that he had been convicted for publishing statements of which he was not the author.

Article 10

The Court noted that the interference with the applicants' freedom of expression had a national legal basis, which was directed against anyone who "printed or published statements or leaflets of terrorist organisations". That interference further pursued the legitimate aims of maintaining public safety and the prevention of disorder and crime in the context of the fight against terrorism. The applicants had been convicted for publishing three texts that the domestic courts had characterised as "terrorist organisation statements" without taking into account their context or content. In fact, two of the texts had been published without any journalist's comments and one article consisted more of an analysis of the left-wing movement in Turkey. The Court was prepared to take into account the difficulties related to the fight against terrorism and took the view that States were entitled to take effective measures to counter public provocation to commit terrorist offences. However, as regards writings emanating from prohibited organisations it was appropriate to have regard not only to the message's author and recipients but also to the content. To condemn a text simply on the basis of the identity of the author would entail the automatic exclusion of groups of individuals from the protection afforded by

Article 10. If the opinions expressed did not constitute hate speech or stir up violence, States were not entitled to rely on national security to restrict the public's right to receive information by using the criminal law against the media.

The grounds given by the Turkish courts for the interference in question, while pertinent, were not sufficient. This lack of reasoning stemmed from the very wording of the law in question, which contained no obligation for the judges to carry out a textual or contextual examination of the writings, applying the criteria established and implemented by the Court under Article 10. The Court had found a violation of that provision in numerous cases against Turkey in which media professionals had been convicted for publishing statements by terrorist organisations, without any further analysis by the judges. This virtually automatic repression, without taking into account the objectives of the media professionals or the right of the public to be informed of another view of a conflicting situation, could not be reconciled with the freedom to receive or impart information or ideas. Accordingly, the applicants' conviction and the measures taken to stop publication were not necessary in a democratic society. The Court found that there had been a violation of Article 10.

Other Articles

As the Turkish Government had not provided any convincing argument concerning the failure to transmit to Mr Özer the opinion of the Principal Public Prosecutor at the Court of Cassation, the Court found that there had been a violation of Article 6 § 1.

Gazeta Ukraina-Tsentr v. Ukraine (no. 16695/04) (Importance 2) – 15 July 2010 – Violation of Article 6 § 1 – Lack of impartiality of judges – Violation of Article 10 – Infringement of the applicant company's right to impart information on account of its conviction for reporting defamatory statements

The applicant is a Ukrainian company. During a press conference relating to the mayoral elections in Kirovograd, a local journalist, Mr M., accused one of the candidates, Mr Y., of ordering him to be murdered for 5,000 US dollars (USD). According to the applicant company, similar information was disseminated by other sources on the same day. Two days later an article appeared in the *Ukraina-Tsentr Newspaper*, in which the press conferences in question were described. Mr Y. lodged a civil claim for defamation before the Leninsky Court against the applicant company and Mr M. Submitting that Mr Y. was the Chairman of the Kirovograd Regional Council of Judges and could influence any judge in the region, Mr M. asked the Supreme Court to transfer the case to one of the local courts in Kyiv. By the time his request was partly allowed, the Leninsky Court had already examined the case, having rejected Mr M.'s request to adjourn it. The Leninsky Court found the information in question defamatory, untrue and not proven to have come from official sources. The court concluded that the applicant company could not be protected against liability and ordered it and Mr M. to pay Ukrainian hryvnias 100,000 (UAH) and UAH 20,000, respectively, in compensation. The applicant company appealed against that decision, complaining in particular that the judge who had decided its case could not be impartial. It further noted that the information was accessible on the public domain, a fact disregarded by the court. It also submitted that its proposal to publish a correction before and during the judicial proceedings had been refused by Mr Y. The Leninsky Court's decision was upheld on appeal and by the Supreme Court. The applicant company paid the compensation awarded against it as well as enforcement fees.

The applicant company complained about the lack of independence and impartiality of the domestic courts. It further complained that the sanction against it for defamation had been unlawful and that the compensation it had been ordered to pay had been disproportionate.

Article 6 § 1

The Court examined whether there had been a lack of "objective impartiality" by the Ukrainian judges, that is whether there had been ascertainable facts which might raise objective doubts as to the judges' impartiality. In that respect even appearances might be important as they influenced, in a democratic society, the confidence of the public in the judiciary. The Court found of no relevance the general comments by the parties on the institutional and financial independence of the judiciary in Ukraine because the present issue was the independence of judges within the judicial system itself, rather than from external parties. Mr Y. held the position of chairman of the regional council of judges and the material submitted by the applicant company demonstrated the possible risk for judges to be influenced through threat of disciplinary proceedings or other career-related decisions. Furthermore the decision by the Supreme Court to transfer the case to another court suggested there was indeed a risk of bias of the Kirovograd courts. Therefore, the applicant company's fears that judges lacked impartiality could be held to be objectively justified. Moreover, the higher courts, in dealing with the applicant company's appeals, disregarded its submissions on that point. The Court concluded there had been a violation of Article 6 § 1.

Article 10

It was not disputed that the decisions of the Ukrainian courts and the award of damages made against the applicant company amounted to an interference with its right to freedom of expression. This interference had a legal basis – the Civil Code – and was accessible and foreseeable in its application. It also served the legitimate aim of "the protection of the reputation or rights of others".

The Ukrainian courts found the applicant company and Mr M. jointly guilty of accusing Mr Y. of a serious crime. They also refused to exempt the applicant company from liability for disseminating untrue and defamatory information because the applicant company had not proven that the published information had come from official sources. The Court noted that the allegations made by Mr M. were very serious, especially in the context of the widely debated issue of the mayoral elections in Kirovograd and considering the vulnerability of journalists who covered politically sensitive topics (18 journalists had died in Ukraine since 1991). The Ukrainian courts established that the intervention of Mr M. had not been distorted in the article and that the information had been presented without commentary or undue emphasis, in the context of a wider report about press conferences relating to the elections. However, in finding the applicant company and Mr M. equally liable for the statement that had in fact emanated from Mr M., they had not weighed up the need to protect the reputation of Mr Y. against the applicant company's right to divulge information of public interest about the elections. Neither had they provided sufficient reasons for putting Mr M., who had made a defamatory statement, and the applicant company, who had reported about it, on an equal footing. Furthermore, they had not taken into account the fact that the information in question had been accessible prior to the publication of the article, the question of the proportionality of the interference or the possibility offered to Mr Y. by the applicant company to reply to the publication. The Court concluded there had been a violation of Article 10.

Roland Dumas v. France (no 34875/07) (Importance 2) – 15 July 2010 – Violation of Article 10 – Infringement of the applicant's right to freedom of expression, on account of his conviction following several statements in his book, concerning his remarks about a public prosecutor

The applicant is a lawyer and politician, formerly Minister for Foreign Affairs and President of the Constitutional Council. He was implicated in the "Elf affair", which uncovered a web of corruption involving French politicians and business leaders. In January 2003 he was acquitted of aiding and abetting the misappropriation of company assets and handling misappropriated company assets. In March 2003 the applicant published a book entitled *L'épreuve, les preuves* ("The ordeal and the evidence"), containing an account of the court case, where he recounted statements made during the trial, including one incident when he took the public prosecutor to task for asking questions about acts not relating to the charges against him. The applicant had remarked to his lawyer: "I wonder what he would have done during the war", before suggesting that the prosecutor would have been "in the Special Sections". These comments were reported in the media. However the applicant was not prosecuted and no disciplinary action was taken against him as a lawyer. Describing his comments as an "audacious parallel" in his book, the applicant explained that they had been prompted by his feelings of revolt at the end of an arduous trial and by the "trace of neurosis" within him (linked to his family history). Following the publication of the book, the public prosecutor considered that it contained defamatory statements against him. In April 2003 the Minister of Justice lodged a criminal complaint alleging defamation of a member of the legal service. The Paris Criminal Court acquitted the applicant, holding that some of the statements in question were covered by the freedom to express criticism and had not overstepped the relevant limits. It acknowledged as regards the parallel drawn with judges of the Special Sections during the Occupation, that such comments were particularly offensive to a member of the legal service; however, it found that there had not been a specific factual allegation susceptible of proof, an essential requirement of a conviction for defamation. The Paris Court of Appeal overturned that judgment ordering the applicant to pay a fine of 3,000 euros (EUR) and his publisher a fine of EUR 2,000. As regards the civil claim, it ordered them to pay EUR 1,000 in damages and 3,000 EUR in costs. It held that the passages in question were defamatory, since the applicant had been unable to prove either that the comparison with the judges of the Special Sections was true or that he had made it in good faith. The Court of Cassation dismissed an appeal on points of law by the applicant and ordered him to pay EUR 3,000 in costs.

The applicant complained that his conviction had breached his freedom of expression.

The Court had to determine whether the applicant's conviction could be regarded as "necessary in a democratic society". It observed that the margin of appreciation enjoyed by the authorities in assessing such "necessity" was particularly limited. The book by the applicant concerned an affair of State that had attracted widespread media coverage; it had imparted information of public interest on the functioning of the judiciary and fell within the scope of political expression. The Court considered that the method of analysis used to convict the applicant had been dubious: the Paris Court of Appeal

had ignored certain aspects of the alleged offence, focusing on a single comment without referring to its context in the reasoning, while at the same time needing to rely on assertions for which the applicant had not been prosecuted in order to find that he could not be said to have acted in good faith. The Court also noted that no criminal proceedings had been pending against the applicant at the time when the statements in question had been made. The Court of Appeal should have taken that factor into account in weighing up the respective interests of the applicant and the public prosecutor. In addition, in his book the applicant had merely exercised his freedom, as a former defendant in criminal proceedings, to recount the story of his own trial by putting his comments in context and explaining them. He had given an explanation of his anger and what had caused it, distancing himself from his own excesses by describing his loss of control and referring to an "audacious parallel". The Court considered that treating the reference to judges of the Special Sections not as a criticism of the public prosecutor's alleged frame of mind but as a precise fact capable of being examined in adversarial proceedings, and requiring the truth of that accusation to be proved even though the impugned passages of the book by the applicant had given an explanation of his anger and the intellectual process that had prompted his excessive remarks, did not constitute a reasonable approach to the facts. The Court thus concluded by five votes to two that there had been a violation of Article 10. Judges Jaeger and Villiger expressed a separate opinion.

Mariapori v. Finland (no. 37751/07) and Niskasaari and Others v. Finland (no. 37520/07) (Importance 2) – 6 July 2010 – Violation of Article 10 – Criminal convictions for defamation of individuals in the context of a debate on an important matter of legitimate public interest – Violation of Article 6 § 1 (in respect of Ms Mariapori and Yhtyneet Kuvalehdet Oy) – Excessive length of criminal proceedings

The applicants are a Finnish national (first case) and a Finnish publishing company and a freelance journalist and editor-in-chief of Seura magazine (second case). The applicants' complaints concerned their criminal convictions for defamation: in the first case, following the publication of a book in which Ms Mariapori, a tax expert, accused a tax inspector of perjury in tax fraud proceedings; and, in the second case, after the publication of an article which contained inaccuracies about a Child Ombudsman's removal from her functions. They also complained about the excessive length of the criminal proceedings brought against them.

In the first case the Court noted that the circumstances this was a classic case of defamation of an individual in the context of a debate on an important matter of legitimate public interest, namely the actions of the tax authorities – present no justification whatsoever for the imposition of a prison sentence. Such a sanction, by its very nature, will inevitably have a chilling effect on public debate. The fact that the applicant's prison sentence was conditional and that she did not in fact serve it does not alter that conclusion. Although the national authorities' interference with the applicant's right to freedom of expression may have been justified by the concern to strike the balance between the various competing interests at stake, the criminal sanction and the accompanying obligation to pay compensation imposed on her by the national courts were manifestly disproportionate in their nature and severity, having regard to the legitimate aim pursued by the applicant's conviction for defamation. The Court found that the severity of the sanctions imposed of itself went beyond a "necessary" restriction on the applicant's freedom of expression. For that reason, there is no need to examine more closely the nature of the statements made in her book. Having regard to this part of the case and notwithstanding the margin of appreciation afforded to the State in this area, the domestic courts failed to strike a fair balance between the competing interests at stake. There has therefore been a violation of Article 10 of the Convention in respect of the statements made by the applicant during the court proceedings as well as in respect of the statements made in her book.

In second case, the Court declared that it could accept that an action, at least in civil law, may lie against a journalist who has published incorrect information about a plaintiff who has suffered pecuniary or non-pecuniary damage as a result. Even accepting that X. had suffered damage, the Court considers that such severe penal sanctions as imposed in the present case together with an obligation to pay damages, viewed against the circumstances, were disproportionate having regard to the competing interest of freedom of expression. In conclusion, in the Court's opinion the reasons relied on by the domestic courts, although relevant, were not sufficient to show that the interference complained of was "necessary in a democratic society". Moreover, the sanctions imposed were disproportionate. Having regard to all the foregoing factors, and notwithstanding the margin of appreciation afforded to the State in this area, the Court considered that the domestic courts failed to strike a fair balance between the competing interests at stake. There has therefore been a violation of Article 10 of the Convention. The Court considered further that the Government had not put forward any fact or argument capable of persuading it to reach a different conclusion in the present cases. Having regard to its case-law on the subject, the Court considered that in the instant case the length of

the proceedings had been excessive and failed to meet the "reasonable time" requirement in breach of Article 6 § 1 (in respect of Ms Mariapori and Yhtyneet Kuvalehdet Oy).

- **Protection of property**

Yetis and Others v. Turkey (no 40349/05) (Importance 1) – 6 July 2010 – Violation of Article 1 of Protocol No. 1 – Systemic problem concerning the absence in Turkish law of a mechanism whereby the national courts could take account of the potential depreciation in the value of compensation awarded for expropriation, as a result of the combined effect of the length of proceedings and inflation

In December 2000 the authorities declared that it was in the public interest to expropriate farm land belonging to the applicants with a view to building a motorway. In May 2002 the authorities brought an action in the Ulukışla District Court, seeking an assessment of the amount and an entry in the land register recognising their ownership of the land in question. In October 2002 the court held that on the date on which the action had been brought, the value of the land had been more than 32 billion Turkish liras and ordered the authorities to pay that amount into a blocked bank account. The payment was made in November 2002. In a judgment of November 2002, which was final as regards the transfer of ownership but subject to an as regards the amount of compensation, the court directed that the sum was to be paid to the applicants, without any default interest, and that the authorities were to be entered in the land register as owners of the land. In November 2003 the Court of Cassation quashed the first-instance judgment. Following two further expert reports produced at its request, in October 2004 the District Court assessed the total amount of compensation at more than 68 billion Turkish liras. It directed that the outstanding balance was to be paid into the specially-opened bank account, but rejected the applicants' request for interest to be payable on the additional compensation for the expropriation at the maximum rate applicable under Article 46 of the Constitution. The sum due was paid to the applicants. In May 2005 the Court of Cassation dismissed an appeal on points of law and upheld the first-instance judgment. At the time of the events, there was a very high rate of inflation in Turkey.

The applicants complained that the compensation they had received for the expropriation had not reflected the real value of their land at the time when it had been paid. They submitted that a considerable amount of time had passed between the dates on which the land had been valued and the compensation paid, and that no system was in place to offset the resulting depreciation. They further argued that in order to afford redress for the loss thus sustained, the domestic courts should have applied the maximum interest rate applicable under Article 46 of the Constitution, but had not done so.

The Court noted that its task was limited to determining whether the applicants had had to bear a disproportionate and excessive burden as a result of the alleged depreciation in the compensation between the date on which the value of the property had been assessed and the date of payment. The Court dismissed the argument that the maximum rate of interest applicable under Article 46 of the Constitution should have been applied in this case. According to the settled case-law of the Court of Cassation, that rate was applicable only if a final award of compensation for expropriation remained unpaid. That had not been the case here, since the compensation awarded by the District Court for the expropriation had been paid immediately. The Court noted that the applicants had been paid the compensation in two instalments. With regard to the first round of proceedings, the Court observed that no default interest had been payable on the sum awarded to the applicants at the end of that round, despite the fact that during the period in question the average annual rate of inflation had been 31.5%. As a result, the compensation awarded to the applicants for the expropriation had decreased by a considerable amount. Even if the applicants had been able to continue using the land during the proceedings, that would not have sufficiently offset such a loss. Furthermore, no legitimate "public interest" ground could have justified reimbursement of less than the full market value of the applicants' land. The Court observed that the difference between the value of the compensation for the expropriation on the date on which the court action had been brought and the value when it had actually been paid was due to the lack of default interest. Such a difference had upset the fair balance that should have been maintained between the protection of the applicants' right of property and the demands of the general interest. With regard to the second round of proceedings, the Court noted that no default interest had been payable on the additional compensation for expropriation awarded to the applicants at the end of that round, although the average annual rate of inflation had been 15% between the date on which the court action had been brought and that of the second judgment. During those two years and seven months, the additional compensation had decreased in value by approximately 43%. The Court that, during this second period too, the applicants had had to bear a disproportionate and excessive burden that could not be justified by a legitimate general interest. Accordingly, there had been a violation of Article 1 of Protocol No. 1.

The Court observed that the violation it had found had originated in a systemic problem connected with the absence in Turkish law of a mechanism whereby the national courts could take account of the potential depreciation in the value of compensation awarded for expropriation, as a result of the combined effect of the length of proceedings and inflation. More than 200 similar applications were currently pending before the Court, and the deficiencies in national law identified in the applicants' case could give rise to a large number of subsequent cases. This was an aggravating factor as regards the State's responsibility under the Convention for an existing or past state of affairs. The Court reaffirmed that Turkey was free, subject to monitoring by the Committee of Ministers, to choose the means of executing the Court's judgments. It nevertheless observed that in order to execute the present judgment, Turkey would undoubtedly have to adopt general measures to prevent further similar violations. Without prejudice to any other measures that Turkey might envisage, the Court held that the most appropriate form of redress would be to incorporate into the Turkish legal system a mechanism for taking account of potential depreciation in the value of compensation for expropriation as a result of the combined effect of the length of proceedings and inflation. This aim could be achieved, for example, by charging default interest to offset such depreciation or, failing that, by awarding appropriate redress for losses sustained by those concerned.

Chagnon and Fournier v. France (nos. 44174/06 and 44190/06) (Importance 2) – 15 July 2010 – No violation of Article 1 of Protocol No. 1 – The slaughter of the applicants' sheep, which had been a preventive measure to avoid the foot-and-mouth epidemic, had been justified by the highly contagious nature of the disease and the risk of the epidemic spreading to France

The applicants breed sheep in the Department of Cher. Following the epidemic of foot-and-mouth disease, which started in the United Kingdom in 2001, the French authorities took measures to protect the country's cattle, sheep, goat and pig livestock. In February 2001 two ministerial circulars – referring to an order "pending signature" in accordance with the Countryside Code – indicated to Prefects and public veterinary services for each Department that it was urgent to carry out the euthanasia and destruction of animals belonging to species susceptible to foot-and-mouth disease which had arrived in France from the United Kingdom since 1 February 2001. Other susceptible livestock having been in contact with those animals were also concerned. In accordance with those circulars, in March 2001, the first applicant's entire herd sheep, together with sheep from Mr Fournier's farm, were culled on the orders of the Prefect. The ministerial order referred to in the circulars of February 2001 was made on 7 March 2001. A few days later, the slaughter of the remainder of Mr Fournier's livestock, was ordered. Samples taken from the slaughtered animals did not reveal any infection caused by the foot-and-mouth virus. The experts estimated the resulting losses at 84,093.93 Euros (EUR) for first applicant and EUR 111,657.47 for second applicant. In April 2001 second applicant received EUR 50,155.72 and first applicant EUR 44,438.89 in accordance with the order of 7 March 2001. Their requests for additional compensation were rejected by the Prefect. They then lodged an application with the Administrative Court, challenging the lawfulness of the slaughter and claiming EUR 63,625 and EUR 76,646 in compensation for their losses. In the course of the proceedings, in November 2001, they received additional compensation of EUR 26,663.33 for first applicant and EUR 30,093.44 for second applicant. The Administrative Court took the view that the ministerial order could not retroactively provide a legal basis for the slaughter measures that had been taken before its entry into force, and found the State liable for payment of compensation amounting to EUR 24,259.63 for first applicant and EUR 27,731.37 for second applicant. That decision was quashed in 2004 on an appeal by the Minister for Agriculture, Food, Fishing and Rural Affairs. The Administrative Court of Appeal found in particular that the effectiveness of the campaign to halt the foot-and-mouth epidemic depended on the speediness of the protective measures taken by the authorities, which had moreover enabled the number of slaughtered animals to be limited to 50,000 in France compared to 6 million in the United Kingdom. It further held that, in those exceptional circumstances, it had been legal for the authorities to take the necessary measures of protection, on the basis of the Countryside Code and for a very limited period, without waiting for the signing of the joint interministerial order provided for by that code, which required an incompressible time-frame that was incompatible with the urgent need to respond to an epidemic in a neighbouring country. The *Conseil d'État* dismissed further appeals lodged by the applicants.

The applicants complained that measures for the slaughter of sheep, taken in 2001 by the authorities in connection with the prevention of the foot-and-mouth epidemic, had been illegal, and that the compensation paid to them had been insufficient.

It was not in dispute that the measures in question constituted an interference with the applicants' enjoyment of their property. The Court took the view that the slaughter of sheep, which had been a preventive measure to avoid the foot-and-mouth epidemic, fell within the control of the use of property within the meaning of Article 1 of Protocol No. 1. The measures had been taken on the basis of ministerial circulars, whose adoption, without waiting for the signing of an interministerial order as

provided for in the Countryside Code, had been justified by the highly contagious nature of foot-and-mouth disease and the risk of the epidemic spreading to France. Having regard to the risks existing at the time, the courts' interpretation of legislation and case-law had not been arbitrary. It had not been disputed that the measures in question pursued a legitimate aim in accordance with the general interest. In addition, they had only concerned one category of animal and had been limited to the time necessary to prevent foot-and-mouth disease and preserve public health and food safety – areas in which the State had a certain discretion. Moreover, the compensation rules applied to the applicants had guaranteed equal compensation for all breeders affected by the slaughter measures. In addition, the sums paid to first applicant and second applicant had amounted to 84.5% and 72%, respectively, of the experts' evaluation. The Court thus found that the measures in question were not disproportionate in the light of the aim pursued. It accordingly held that there had been no violation of Article 1 of Protocol No. 1.

- **Right to vote**

Sitaropoulos and Giakoumopoulos v. Greece (no. 42202/07) (Importance 2) – Violation of Article 3 of Protocol No. 1 – Infringement of Greek expatriates' right to free elections on account of domestic authorities' failure to take effective measures for over three decades to enable the applicants to exercise their right to vote in national elections from their place of residence

The applicants are officials of the Council of Europe. In a fax dated 10 September 2007 to the Greek Ambassador in France, the applicants, being permanent residents in France, expressed the wish to exercise their voting rights in France for the Greek parliamentary elections. The Ambassador replied that their request could not be granted "for objective reasons", namely the absence of the legislative regulation that was required to provide for "special measures ... for the setting up of polling stations in Embassies and Consulates". As a result, the applicants could not exercise their voting rights in the elections of September 2007.

The applicants complained that they had been unable to exercise their right to vote at their place of residence, as they were living abroad.

The Court noted that Article 51 § 4 of the Greek Constitution ("Article 51 § 4"), a provision that was adopted in 1975 and restated when the Constitution was revised in 2001, authorised the legislature to lay down the conditions for the exercise of voting rights for expatriate voters. Whilst the applicants could always have gone to Greece in order to vote, the *de facto* obligation to travel considerably complicated the exercise of their right because it entailed expenses and disturbance to their professional and family life. Article 3 of Protocol No. 1 did not require States to secure voting rights in parliamentary elections for voters living abroad. However, the Greek constitutional provision in question (Article 51 § 4) could not remain inapplicable indefinitely, otherwise its content and the intention of its drafters would be deprived of any normative value. Thirty-five years after it was adopted, the legislature had still not rendered that provision effective. In addition, whilst a bill of February 2009 entitled "Exercise of the right to vote in parliamentary elections by Greek voters living abroad" indicated an intention to legislate on the matter, the Court noted that it had been put before Parliament eight years after the last revision of the Constitution. In addition, since that bill had failed in April 2009, no fresh initiative had been taken. The lack of legislative implementation in respect of expatriates' voting rights was likely to constitute unfair treatment of Greek citizens living abroad – especially at a significant distance – in relation to those living in Greece, contrary to the Council of Europe's texts urging member States to enable their non-resident citizens to participate to the fullest extent possible in elections. On the basis of a comparative study of the domestic law of 33 member States of the Council of Europe, the Court observed that the vast majority (29) had implemented procedures for that purpose, and concluded that Greece fell below the common denominator in such matters. The Court reiterated that the Convention was intended to guarantee not rights that were theoretical or illusory but rights that were practical and effective. It emphasised that it was more demanding concerning the "active" aspect – restrictions on voting rights – than the "passive" aspect – the right to stand for election – of Article 3 of Protocol No. 1, and that Greece could not rely on the broad margin of appreciation usually afforded to States in such matters under that provision. Therefore, the absence for over three decades of effective measures to enable the applicants to exercise their right to vote in national elections from their place of residence had breached the right to free elections. The Court found, by five votes to two, that there had been a violation of Article 3 of Protocol No. 1. Judges Spielmann and Jebens expressed a joint partly dissenting opinion. Judges Vajić and Flogaitis each expressed a dissenting opinion.

- **Disappearances cases in Chechnya**

Gelayevy v. Russia (no. 20216/07) (Importance 2) – 15 July 2010 – Violations of Article 2 (substantive and procedural) – (i) Abduction and presumed death of the applicants' close relative, Murad Gelayev – (ii) Lack of an effective investigation – Violations of Article 3 (substantive and procedural) – (i) Torture of the applicants' relative – (ii) Ill-treatment of the second applicant – (iii) Lack of an effective investigation – (iv) The applicants' mental suffering – Violation of Article 5 – Unacknowledged detention of the applicants' relative – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 06 Jul. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 08 Jul. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 13 Jul. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 15 Jul. 2010: here

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Austria	15 Jul. 2010	Mladoschovitz (no. 38663/06) Imp. 2	Violation of Art. 6 § 1	Infringement of the principle of equality of arms on account of the fact that the applicants had neither knowledge of the appeal against the decision setting the amount of the deposit, nor an opportunity to submit their arguments, yet had to bear the costs of the appeals' proceedings, concerning a maintenance claim against their father	Link
Azerbaijan	08 Jul. 2010	Hajiyeva and Others (nos. 50766/07, 50786/07, 50871/07 and 50913/07) Imp. 3 Isgandarov and Others (nos. 50711/07, 50793/07, 50848/07, 50894/07 and 50924/07) Imp. 3	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Non-enforcement of domestic court judgments which ordered the eviction of internally displaced persons from the applicants' apartments and lack of compensation	Link Link
Croatia	15 Jul. 2010	Šikić (no. 9143/08) Imp. 3	No violation of Art. 6 §§ 1 and 2 (fairness) Violation of Art. 6 § 1 (length)	The applicant did not request an oral hearing before the Administrative Court and his case did not give rise to questions of public interest making such a hearing necessary Excessive length of proceedings concerning the applicant's dismissal	Link
Germany	08 Jul. 2010	Döring (no. 40014/05) Imp. 3	No violation of Art. 6 § 1 Violation of Art. 6 § 1 (length)	Reasonable length of proceedings concerning visiting rights Excessive length of custody proceedings	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

Hungary	06 Jul. 2010	Turán no. 33068/05) Imp. 3	Violation of Art. 8	Unlawfulness of a search carried out in the applicant's office by the police in her absence	Link
Moldova	13 Jul. 2010	Manole and Others (no. 13936/02) Imp. 2	Just satisfaction	Just satisfaction following a judgment of 17 September 2009, where the Court found a violation of Art. 10	Link
Poland	06 Jul. 2010	Jarkiewicz (no. 23623/07) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 8	Excessive length of pre-trial detention Censorship of the letter sent to the applicant in April 2006 by the Lublin District Court	Link
Poland	06 Jul. 2010	Zawadzki (no. 648/02) Imp. 3	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 (c) (fairness)	Infringement of the applicant's right of access to the Supreme Court on account of the legal-aid lawyer's refusal to file a cassation appeal	Link
Poland	13 Jul. 2010	Giza (no. 48242/06) Imp. 3	Violation of Art. 6 § 1	Non-enforcement of the judgment in the applicant's favour more than twelve years after its delivery	Link
Romania	06 Jul. 2010	Degeratu (no. 35104/02) Imp. 3	Violation of Art. 5 §§ 3 and 5	Excessive length of pre-trial detention; lack of reasoning of decisions extending the applicant's detention; lack of an effective remedy for compensation	Link
Romania	06 Jul. 2010	Dimakos (no. 10675/03) Imp. 3	Violation of Art. 3	Conditions of detention in various Romanian prisons	Link
Romania	06 Jul. 2010	Nicuț-Tănăsescu (no. 25842/03) Imp. 3	Violation of Art. 5 § 3	Failure to bring the applicant promptly before a judge	Link
Romania	13 Jul. 2010	Fuşcă (no. 34630/07) Imp. 2	No violation of Art. 8	The authorities did not fail in their responsibilities to protect the applicant's right to respect for family life	Link
Russia	08 Jul. 2010	Matveyev (no. 14797/02) Imp. 3	Violation of Art. 3	Conditions of detention in SIZO no. 4 in St Petersburg and SIZO no. 3 in Moscow	Link
Russia	15 Jul. 2010	Medvedev (no. 9487/02) Imp. 3	Violation of Art. 5 § 4	Domestic courts' undue delay to review the lawfulness of the applicant's detention	Link
Russia	15 Jul. 2010	Krivonosov (no. 7772/04) Imp. 3	Violation of Art. 3 No violation of Art. 3 No violation of Art. 5 § 1 Violation of Art. 5 §§ 3 and 4 Violation of Art. 6 § 1 (length) Violation of Art. 13	Conditions of the applicant's detention in facility IZ-61/1 in Rostov-on-Don The Court was unable to establish "beyond reasonable doubt" that the applicant's confinement at the Rostov Regional Court attained a minimum level of severity sufficient to bring the complaint within the scope of Art. 3 The applicant's detention was extended by the Regional Court on three occasions on the ground of the gravity of the charges against him and his co-defendants Excessive length of pre-trial detention and deprivation of the right to an effective judicial review of his complaint against the order to extend his detention Excessive length of proceedings Lack of an effective remedy	Link
Turkey	13 Jul. 2010	Alipour and Hosseinzadgan (nos. 6909/08, 12792/08 and 28960/08)	(Mr Alipour) Violation of Art. 5 § 1	Domestic authorities' failure to secure the applicant's speedy release from the Kırklareli Foreigners' Admission and Accommodation Centre to enable	Link

		Imp. 2	(Mr Alipour) No violation of Art. 3	an earlier departure for Sweden once he had been granted refugee status there It has not been established that the material conditions in the Kırklareli Foreigners' Admission and Accommodation Centre are so harsh as to bring them within the scope of Article 3	
Turkey	13 Jul. 2010	Çerikçi (no. 33322/07) Imp. 3	Violation of Art. 11 Violation of Art. 13	Disciplinary measure for unauthorised absence from work after participating, as a trade union member, in a national Labour Day celebration Lack of an effective remedy	Link
Ukraine	15 Jul. 2010	Buryaga (no.27672/03) Imp. 3	Violation of Art. 5 §§ 1, 3 and 4 Violation of Art. 6 § 1 (length)	Unlawfulness and excessive length of detention; lack of an effective remedy for reviewing the lawfulness of his detention Excessive length of proceedings	Link
Ukraine	15 Jul. 2010	Aleksandr Smirnov (no. 38683/06) Imp. 3	No violation of Art. 3 Violation of Art. 3 No violation of Art. 34	It was not established "beyond reasonable doubt" whether or not the applicant's injuries were caused by the police Lack of an effective investigation into the alleged ill-treatment There was nothing to suggest any obstruction by the authorities concerning the applicant's application to the Court	Link
Ukraine	15 Jul. 2010	Vinokurov (no. 2937/04) Imp. 3	Violation of Art. 5 § 3	Excessive length of pre-trial detention concerning suspicion of financial fraud and forgery	Link
Ukraine	15 Jul. 2010	Yushchenko and Others (nos. 73990/01, 7364/02, 15185/02 and 11117/05) Imp. 3	(1st applicant) Violation of Art. 6 § 1 (fairness) (1st applicant) No violation of Art. 6 § 1 (length) (fraud proceedings) (1st applicant) Violations of Art. 6 § 1 (length) (libel and civil proceedings) (3rd applicant) Violation of Art. 6 § 1 (length) (3rd applicant) No violation of Art. 6 § 2 (fairness)	1st applicant : Infringement of the principle of legal certainty on account of the fact that the civil aspect of the criminal case covered precisely the same ground as that in the earlier civil proceedings Reasonable length of criminal proceedings Excessive length of civil proceedings 3rd applicant : Excessive length of proceedings The court judgment of 12 January 2004 did not contain any express or even indirect statements about the third applicant's guilt in respect of fraud or any other offence	Link

3. Repetitive cases

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

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

State	Date	Case Title	Conclusion	Key words
Moldova	13 Jul. 2010	Panov (no. 37811/04) link	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce a final judgment in the applicant's favour (see, among other authorities, *Prodan v. Moldova*, cited above, and *Lupacescu and Others v. Moldova*)
Portugal	13 Jul. 2010	Fernandes Formigal de Arriaga and Others (nos. 24678/06, 25037/06 etc.) link Monteiro de Barros de Mattos e Silva Adegas Coelho and Others (no. 25038/06) link	Violation of Art. 1 of Prot. 1	Delay in calculating and paying the compensation awarded to the applicants following expropriation or nationalisation proceedings
Romania	06 Jul. 2010	Postolache (No. 2) (no. 48269/08) link	Violation of Art. 6 § 1 (fairness)	Domestic courts' refusal to allow the applicant's appeal on account of his failure to pay stamp duty
Romania	06 Jul. 2010	S.C. Prodcomexim S.R.L. (No. 2) (no. 31760/06) link	Violation of Art. 6 § 1	Non-enforcement of a final judgment in the applicant company's favour
Russia	15 Jul. 2010	Nikitina (no. 47486/07) link	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1 Violation of Art. 13	Non-enforcement of a final judgment in the applicant's favour Lack of an effective remedy
Russia	15 Jul. 2010	Salikova (no.25270/06) link	Violation of Art. 6 § 1 (length) Violation of Art. 6 § 1 (fairness) Violation of Art. 13	Excessive length of proceedings Non-enforcement of a final judgment in the applicant's favour Lack of an effective remedy

4. Length of proceedings cases

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

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

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

State	Date	Case Title	Link to the judgment
Greece	15 Jul. 2010	Kotaridis (no. 205/08)	Link
Poland	06 Jul. 2010	Rejzmund (no. 42205/08)	Link
Poland	13 Jul. 2010	Czajkowska and Others v. (no. 16651/05)	Link
Turkey	13 Jul. 2010	Kurtucu and Others (nos. 31301/05, 4532/06 and 19640/06)	Link
Ukraine	15 Jul. 2010	Kolomoyets (no. 11208/03)	Link
Ukraine	15 Jul. 2010	Palamarchuk (no. 28585/04)	Link
Ukraine	15 Jul. 2010	Slanko (no. 6508/05)	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 14 to 27 June 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***
Bulgaria	15 Jun. 2010	Petrovi (II) 27937/05 link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of *rei vindicatio* 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	15 Jun. 2010	Dukova (no 36318/05) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Bulgaria	22 Jun. 2010	Kemerov (no 16077/05) link	Alleged violation of Art. 3 (ill-treatment by police officers and lack of an effective investigation), Art. 8 (the applicant complained that the police had entered the applicant's home unlawfully), Art. 13 (lack of an effective remedy)	Inadmissible (non-exhaustion of domestic remedies)
Bulgaria	22 Jun. 2010	Koseva (no 6414/02) link	Alleged violation of Art. 2 (applicant's son's death in prison and lack of an effective investigation into the), Art. 6 § 1 (unfairness and excessive length of several sets of proceedings), Art. 5 (unlawful detention)	Partly inadmissible as manifestly ill-founded (satisfactory investigation concerning the procedural claim under Articles 2 and 3 and the applicant's son's death could not have been foreseen by the authorities), partly inadmissible for lack of an arguable claim (concerning claim under Art. 13), partly incompatible *ratione materiae* (concerning the dismissal proceedings) and partly inadmissible for non-exhaustion of domestic remedies (concerning the proceedings involving the plot of land and the applicant's detention)
Croatia	17 Jun. 2010	Vogtmann (no 10543/07) link	Alleged violation of Art. 6 § 1 (domestic courts' failure to initiate proceedings following the applicant's action for damages), Art. 1 of Prot. 1 (destruction of the applicant's summer house)	Partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention) and partly incompatible *ratione temporis* (the events happened before the date of the ratification of the Convention by Croatia)
Croatia	24 Jun. 2010	Getoš Magdić (no 56305/08) link	Alleged violation of Art. 5 §§ 1 and 3 (unlawfulness and excessive length of detention), Art. 5 § 4 (unfairness of proceedings concerning the lawfulness of detention)	Partly admissible (concerning the duration of and the grounds for the applicant's detention and her right to review the lawfulness of her detention), partly inadmissible for non-exhaustion of domestic remedies (concerning the applicant's initial detention)
Croatia	24 Jun. 2010	Dodoš (no 29706/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Croatia	24	Jularić (no	Alleged violation of Articles 1, 2 and	Partly inadmissible for non-respect

	Jun. 2010	26611/08) link	3 (the applicant complained of having been attacked by a prison guard and lack of an effective investigation), lack of adequate medical care in prison and ill-treatment on account of the consequences of his return to prison on his health)	of the six-month requirement concerning the applicant's attack), partly inadmissible as manifestly ill-founded (the applicant's health was continually monitored by a prison doctor; he was hospitalised whenever recommended and was also frequently treated in various other medical institutions; for most of the time he had been granted temporary release on health grounds)
Finland	22 Jun. 2010	Ruohoniemi (no 11123/10) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Finland	22 Jun. 2010	Parviainen (no 48027/09) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
France	15 Jun. 2010	Cassez Desjardins and Others (no 50533/07) link	Alleged violation of Article 2 (State's responsibility into the applicants' relatives' death on account of medical negligence and lack of an effective investigation)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
France	15 Jun. 2010	Garcia (no 1319/07) link	Alleged violation of Art. 6 § 1 (lack of effective access to a court and excessive length of proceedings)	Partly inadmissible as manifestly ill-founded (the restriction on the applicant's right of access to a court constituted a proportionate measure), and partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings)
France	15 Jun. 2010	Saliu (no 48878/09) link	Alleged violation of Art. 8 (infringement of the right to respect for family and private life on account of the applicant's restriction to enter the French territory), Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Georgia	22 Jun. 2010	Teimuraz Andronikashvili (no 9297/08) link	Alleged violation of Art. 6 § 1 and Art. 13 (excessive length of proceedings and lack of an effective remedy), Art. 1 of Prot. 1 (infringement of property rights due to the delay in the domestic proceedings)	Incompatible *ratione materiae* (concerning the length of proceedings) and incompatible *ratione temporis* (concerning the remainder of the application)
Hungary	15 Jun. 2010	Laszlo Balogh (no 8183/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Italy and the Netherlands	15 Jun. 2010	Pianese (no 14929/08) link	Alleged violation of Art. 5 (unlawful detention), Art. 13 (lack of an effective remedy), Art. 6 (unfairness of proceedings)	Partly adjourned (concerning the lawfulness of the detention and the lack of an effective remedy), partly inadmissible as manifestly ill-founded (no evidence to establish the unfairness of proceedings concerning the remainder of the application)
Latvia	15 Jun. 2010	Bernāns (no 18705/02) link	The applicant's complaints concerned the conditions of detention in Brasa and Grīva Prisons, the lack of an effective remedy in that regard, and the infringement of his right to respect for correspondence	Struck out of the list (applicant no longer wished to pursue his application)
Latvia	15 Jun. 2010	Lotovin (no 582/02) link	Alleged violation of Art. 14 in conjunction with Art. 1 of Prot. 1 (differences in calculating old-age pensions for citizens of Latvia and other residents)	Struck out of the list (the applicant no longer wished to pursue his application)
Latvia	22 Jun. 2010	Voroncovs (no 4058/02) link	The applicant complained about the length of the his pre-trial detention, the alleged impossibility to receive	Struck out of the list (applicant no longer wished to pursue his application)

			compensation in that regard, the overall length of criminal proceedings against him and an alleged violation of the *ne bis in idem* principle	
Moldova	15 Jun. 2010	Boldişor (no 10275/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Idem.
Moldova and Russia	15 Jun. 2010	Catan and 27 Others (no 43370/04; 8252/05; 18454/06) link	Alleged violation of Articles 3, 8 and 14 and art. 2 of Prot. 1 (closure of the applicants' schools and their harassment by the "Moldavian Republic of Transdniestria" authorities)	Partly admissible in respect of complaints under Articles 8 and 14 and Art. 2 of Prot. 1, partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Monaco	15 Jun. 2010	Fogwell (no 14157/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 §§ 1 and 2 and Art. 14 (unfairness of proceedings), Art. 6 §§ 1 and 3 d) (authorities' refusal to allow the applicant access to her computer)	Partly inadmissible for non-respect of the six-months requirement (concerning claims under Art. 5 § 3), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention), concerning the length and unfairness of proceedings and the applicant's access to her computer)
Poland	22 Jun. 2010	Jurga (no 30540/09) link	Alleged violation of Art. 8 (refusal to grant the applicant a prisoner compassionate leave to attend the funeral of his mother)	Struck out of the list (friendly settlement reached)
Poland	15 Jun. 2010	Siałkowska (no 29956/09) link	Alleged violation of Art. 6 § 1 (lack of effective access to the cassation court)	Struck out of the list (unilateral declaration of Government)
Poland	22 Jun. 2010	Czechowski (no 22605/03) link	Alleged violation of Art. 5 (excessive length of pre-trial detention), Art. 3 (conditions of detention in Cieszyn prison; prison authorities' dismissal of the applicant's requests for an extraordinary leave from to visit his stepfather in hospital and to participate in administrative proceedings regarding his registration concerning a flat), seizure of the applicant's personal belongings and unfairness of criminal proceedings	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Poland	22 Jun. 2010	Wojtasik (no 1882/08) link	Alleged violation of Art. 6 § 1 (lack of effective access to the Cassation court)	Struck out of the list (unilateral declaration of Government)
Poland	22 Jun. 2010	Zając (no 32471/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Romania	22 Jun. 2010	Mureşan (no 31530/05) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings) and Art. 14 (alleged conflicting decisions of the same court in identical cases brought against other tenants of apartments located in the same building)	Inadmissible (for non-respect of the six-month requirement)
Romania	15 Jun. 2010	Mărgărit (no 1330/03) link	Alleged violation of Art. 3 (ill-treatment by the police), Art. 5 (unlawful detention, Art. 6 (unfairness of proceedings)	Struck out of the list (applicant no longer wished to pursue his application)
Romania	15 Jun. 2010	Broadhurst Investments Limited (no 34868/03) link	Alleged violation of Art. 1 of Prot. 1 (deprivation of the applicant company of part of its properties by the domestic authorities)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Romania	15 Jun. 2010	Popa (no 38787/03) link	Alleged violation of Articles 5, 6 and 13 (lack of an effective investigation into the attack on the applicant and the fire of his apartment as well as	Inadmissible as manifestly ill-founded (authorities' thorough investigation into the applicant's complaints)

			the length of those proceedings)	
Romania	22 Jun. 2010	Fortunescu (no 30451/04) link	Alleged violation of Art. 2 (lack of an effective investigation in respect of the applicants' close relative's death), Art. 6 § 1 (unfairness of proceedings concerning the annulment of the applicants' relative's will)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 2), partly inadmissible for non-respect of the six-month requirement (concerning the claims under Art. 6 § 1)
Russia	24 Jun. 2010	Sobol and 35 other applications (no 11373/03; 14008/03 etc.) link	The applicants complained about the delayed enforcement of the judgments in their favour and, in certain cases, of the assorted faults that allegedly accompanied the judicial or enforcement proceedings	Struck out of the list (unilateral declaration of Government)
Russia	17 Jun. 2010	Esenov (no 16055/06) link	Alleged violation of Art. 5 (unlawful arrest and excessive length of detention)	Struck out of the list (applicant no longer wished to pursue his application)
Russia	24 Jun. 2010	Kurbanov (no 19293/08) link	Alleged violation of Art. 5 §§ 1 and 4 (unlawfulness of detention pending extradition and absence of judicial review)	Struck out of the list (unilateral declaration of Government)
Slovakia	25 Jun. 2010	Šudáková (no 10097/08) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of civil proceedings)	Struck out of the list (friendly settlement reached)
Slovakia	22 Jun. 2010	Mullerova and Others (no 5970/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Slovakia	22 Jun. 2010	Bodnár (no 52200/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Idem.
Slovenia	24 Jun. 2010	Lazar and 3 Others (no 7161/03; 8414/03 etc.) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings), Art. 13 (lack of an effective remedy), Articles 8 and Art. 1 of Prot. 1 (constant fear of being evicted from apartment due to domestic courts' decisions), Art. 14 (discriminatory treatment, concerning Mr Žerajić, based on his ethnic origins and his status as a member of the army forces), Art. 3 (alleged torture), Art. 7 (retroactive interference with property rights), Articles 6 §§ 1 and 3 and 7 § 1	Partly inadmissible for non-exhaustion of domestic remedies (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)
Slovenia	24 Jun. 2010	Kuhelj (no 10909/03) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of proceedings), Art. 13 (lack of an effective remedy)	Partly struck out of the list (friendly settlement reached 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)
Slovenia	24 Jun. 2010	Trtinjak (no 8478/06; 15995/06 etc.) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (the matter had been resolved at the domestic level)
Slovenia	24 Jun. 2010	Bizjak (no 15555/06; 26045/06) link	Idem.	Struck out of the list (the applicants no longer wished to pursue their application)
Slovenia	24 Jun. 2010	Maslo (no 48632/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy), Art. 14 (the applicant could not lodge a request for protection of legality before the Supreme Court, since such competences are only vested in the public prosecutor), Art.	Struck out of the list (the applicant no longer wished to pursue his application)

			1 of Prot. 1 (damage on account of the criminal acts complained of and the protracted proceedings)	
Sweden	22 Jun. 2010	Al-Zawatia (no 50068/08) link	Alleged violation of Art. 3 (deportation to the West Bank or Jordan would be in breach of this Article due to the applicant's poor mental health), Art. 8 (if deported, interference with the applicant's right to family life due to his marriage with a Swedish woman)	Partly inadmissible as manifestly ill-founded (the case does not concern the direct responsibility of the Contracting State for the possible harm concerning claims under Art. 3), partly inadmissible for non-exhaustion of domestic (concerning claims under Art. 8)
"the former Yugoslav Republic of Macedonia"	22 Jun. 2010	Vraniškoski (no 39168/03) link	Alleged violation of Art. 8 (eviction of the applicant from the Eparchy building which served as the applicant's place of residence)	Inadmissible (non-exhaustion of domestic remedies)
the Netherlands	15 Jun. 2010	Niazi (no 14126/06) link	Alleged violation of Articles 3 and 8 (risk of being subjected to ill-treatment and unjustified interference with the applicant's right to respect for her private and family life as with her only remaining son in the Netherlands, if expelled to Afghanistan)	Struck out of the list (the applicant no longer wished to pursue her application)
the Netherlands and Greece	15 Jun. 2010	Tobiya (no 58877/09) link	Alleged violation of Articles 3, 5 §§ 2 and 4, 6, 13 and 14 if expelled by the Dutch authorities to Greece	Struck out of the list (it is no longer justified to continue the examination of the application)
the United Kingdom	22 Jun. 2010	Blatchford (no 14447/06) link	Alleged violation of Art. 8 and Art. 1 of Prot. 1 (bad management of the applicants' affairs; excessive delays in dealing with their estate following the issuing of the bankruptcy order), Art. 6 § 1 (the applicants' inability to obtain legal-aid to defend their interests), Art. 2 of Prot. 4 (restrictions on their ability to dispose of their property at Omer Avenue), Art. 4 of Prot. 7 (increase in the sums required to settle the applicants' affairs between 1996 and 2006 amounted to being punished twice), Art. 1 of Prot. 4 (arrest warrant issued for the applicant's non-payment of business rates and poll tax)	Partly inadmissible (non-respect of the six-month requirement in respect of Art. 6 § 1), partly inadmissible as manifestly ill-founded (the fact that the trustee retained a beneficial interest in the property which subsisted for some fourteen years, and that throughout that time a caution was registered over the property, did not of itself impose a disproportionate burden on the applicants such as to give rise to the appearance of a violation under Art. 8 or Art. 1 of Prot. 1.), partly incompatible *ratione personae* (the respondent State has not yet ratified Protocols 4 and 7)
Turkey	22 Jun. 2010	Ertuş (no 37871/08) link	Alleged violation of Articles 1, 3, 5 §§ 1 and 2, 6 §§ 1, 2 and 3, 13, 14 and 18 and Art. 1 of Prot. 12 (ill-treatment of the first applicant immediately after his arrest, during his detention in police custody and in prison and the ineffectiveness of the domestic mechanisms in respect of their allegations of ill-treatment)	Partly struck out of the list (concerning the first applicant's complaints under Articles 3 and 13 concerning the alleged ill-treatment inflicted on him immediately after his arrest and the alleged ineffectiveness of the domestic mechanisms in respect of his allegations of ill-treatment), partly incompatible *ratione personae* (concerning the second and third applicant), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Turkey	22 Jun. 2010	Shamsi (no 13919/08) link	Alleged violations of Articles 2, 3, 5 and 6 (risk of unfair trial and subsequent imprisonment, ill-treatment or even death if deported to Egypt)	Inadmissible as manifestly ill-founded (the applicant can no longer claim to be a "victim" as he no longer faces deportation)
Turkey	15 Jun. 2010	Demirörs and Others (no 24576/09) link	Alleged violation of Articles 2 and 3 (the applicants' relative's suicide during military service), Art. 6 (unfairness and excessive length of proceedings)	Inadmissible (non-exhaustion of domestic remedies)
Turkey	15 Jun.	Soytaş (no 18328/07;	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)

	2010	35068/07 etc.) link	and Art. 5 § 3 (excessive length of pre-trial detention)	
Turkey	15 Jun. 2010	Sari and Mutlu (no 31853/06; 31856/06 etc.) link	Alleged violation of Art. 1 of Prot. 1 (non-enforcement of decisions in the applicants' favour)	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	19 Jun. 2010	Oğuz and Others (no 29183/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
Ukraine	22 Jun. 2010	Azim Denizcilik Ticaret Ve Sanayi Limited Sirketi (no 1018/04) link	Alleged violation of Art. 6 §§ 1 and 3 (b) (excessive length and unfairness of proceedings), Art. 13 (lack of an effective remedy), Art. 14 (discrimination by the Ukrainian authorities on the ground of being a foreign company)	Inadmissible as manifestly ill founded (the length of proceedings could not be regarded as "excessive" and no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	22 Jun. 2010	Kublichek (no 24464/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Articles 6, 8 and Art. 1 of Prot. 1	Struck out of the list (friendly settlement reached)
Ukraine	22 Jun. 2010	Odzhykovskiy (no 24249/08) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 13 (lack of an effective remedy)	Idem.
Ukraine	22 Jun. 2010	Lobas (no 12748/05) link	Idem.	Idem.
Ukraine	22 Jun. 2010	Melnychuk (no 40663/07) 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)
Ukraine	22 Jun. 2010	Ananin (no 11867/06; 11868/06 etc.) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (the applicants no longer wished to pursue their application)
Ukraine	22 Jun. 2010	Pereval and Others (no 34167/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (lengthy non-enforcement of judgments given in the applicants' favour)	Struck out of the list (the applicants no longer wished to pursue their application)
Ukraine	22 Jun. 2010	Shevelev and Others (no 16639/04) link	Idem.	Idem.
Ukraine	22 Jun. 2010	Kalyuk (no 8809/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Articles 1, 6 § 1, 13 and 17 (unfavourable outcome of the proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violations of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	22 Jun. 2010	PP Gir I K (no 8024/09) link	The applicant company complained about non-enforcement of several judgments in its favour	Struck out of the list (the applicant company no longer wished to pursue its application)
Ukraine	22 Jun. 2010	Tomachenko (no 41849/05) link	Alleged violation of Articles 1, 3, 5, 6, 7 and 13 (in particular excessive length of criminal proceedings)	Struck out of the list (following the applicant's death, no one expressed an intention to pursue the application)
Ukraine	22 Jun. 2010	Luka (no 32679/06) link	The applicant complained about the excessive length of proceedings and the excessive length of pre-trial detention	Struck out of the list (the applicant no longer wished to pursue his application)
Ukraine	22 Jun. 2010	Medvedev (no 7296/06) link	Alleged violation of Art. 6 § 1 (lengthy non-enforcement of judgments in the applicant's favour)	Idem.

C. The communicated cases

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

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

- on 12 July 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 12 July 2010 on the Court's Website and selected by the NHRS Unit

The batch of 12 July 2010 concerns the following States (some cases are however not selected in the table below): Austria, France, Italy, Malta, Moldova, Poland, Romania, Russia, Slovakia, the Czech Republic, the United Kingdom, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Moldova	23 Jun. 2010	Straisteanu no 40699/08	Alleged violation of Art. 3 – Conditions of detention in the detention facilities of Straseni Police Station and of the Central Police Station in Chişinău – Question as to whether the facts of the present application disclose the existence of a "systemic problem" such that the deficiencies in the national law and/or practice complained of may give rise to numerous similar applications
Slovakia	23 Jun. 2010	Mihal no 23360/08	Alleged violation of Art. 4 § 2 and Art. 1 of Prot. 1 – The applicant, a judicial enforcement officer, complained that in the lack of compensation for the costs he incurred for the enforcement he carried-out amounted to forced or compulsory labour – Alleged violation of Art. 13 – Lack of an effective remedy
the United Kingdom	24 Jun. 2010	Abdi Ibrahim no 14535/10	Alleged violation of Articles 3 and 8 – Risk of being subjected to ill-treatment and violation of the applicant's right to respect for private and/or family life if expelled to Somaliland
the United Kingdom	22 Jun. 2010	Kawogo no 56921/09	Alleged violation of Art. 4 – The applicant complained of having been subjected to domestic forced labour in the United Kingdom, which the authorities failed to adequately investigate and prosecute as a criminal offence – Alleged violation of Art. 13 – Lack of an effective remedy
Turkey	23 Jun. 2010	Tüzün no 24164/07	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment during arrest – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Turkey	22 Jun. 2010	Baytekin no 59707/09	Alleged violation of Art. 2 (substantive and procedural) – Domestic authorities' failure to protect the applicants' son's life during his military service – Lack of an effective investigation – Alleged violation of Art. 3 – Violent beatings of the applicants' son by sergeants – Alleged violation of Art. 13 – Lack of an effective remedy in respect of claims under Articles 2 and 3
Turkey	22 Jun. 2010	Doğan no 40860/04	Alleged violation of Art. 2 (substantive and procedural) – Domestic authorities' failure to protect the applicant's husband's life – Lack of an effective investigation
Turkey	22 Jun. 2010	Dülek and Others no 31149/09	Alleged violation of Art. 2 – Military authorities' failure to take the appropriate measures to prevent the applicants' close relative, suffering from psychological disorders, from committing suicide during his military service

Turkey	22 Jun. 2010	Korganci and Others no 27479/09	Alleged violation of Art. 2 – Military authorities' failure to take the appropriate measures to prevent the applicants' close relative from committing suicide during his military service
Turkey	22 Jun. 2010	Kurt no 23164/09	Alleged violation of Art. 2 (substantive and procedural) – Military authorities' failure to take the appropriate measures to prevent the applicant's son from committing suicide during his military service – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy in respect of claims under Art. 2
Turkey	22 Jun. 2010	Tanişma and Others no 32219/05	Alleged violation of Art. 2 (substantive and procedural) – Military authorities' failure to take the appropriate measures to prevent the applicants' close relative from committing suicide during his military service – Lack of an effective investigation
Turkey	22 Jun. 2010	Taştop and Others no 23258/09	Idem.
Turkey	22 Jun. 2010	Üstdağ and Üstdağ no 41642/08	Alleged violation of Art. 2 (substantive and procedural) – State's failure to protect the applicants' son's life during his military service – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy in respect of claims under Art. 2 – Alleged violation of Art. 6 § 1 – Excessive length of proceedings
Ukraine	25 Jun. 2010	Chobitko no 27520/05	Alleged violation of Art. 3 – Ill-treatment in Pyryatyn Temporary Detention Facility – Alleged violation of Art. 5 § 1 – Unlawfulness of detention

D. Miscellaneous (Referral to Grand Chamber, hearings and other activities)

Conditions of admissibility (28.07.2010)

The Court has delivered a further decision applying the admissibility criterion of "significant disadvantage" introduced by Protocol No. 14 (press release). Several admissibility conditions have to be met before a case can be lodged with the Court, failing which the application will be declared inadmissible. These include exhausting domestic remedies and lodging an application with the Court within six months of the final (domestic) court decision. Find out more about the conditions of admissibility

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)

Defence for Children International v. The Netherlands – Committee of Ministers adopts a resolution (07.07.2010)

The European Committee of Social Rights concluded in its decision on the merits in the case *Defence for Children International v. The Netherlands* (Complaint no. 47/2008), that the Dutch authorities do not provide shelter to children unlawfully present in The Netherlands. Following this decision, the Committee of Ministers adopted Resolution Res/CM/ChS(2010)6 on 7 July 2010.

Meeting in Tbilisi (09.07.2010)

A meeting on non-accepted provisions of the ESC was held in Tbilisi on 9 July 2010. Programme

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 Turkey (09.07.2010)

The CPT has published on 9 July, at the request of the Turkish Government, the report on the January 2010 ad hoc visit to Turkey, together with the Government's response. During that visit, the delegation visited the new detention facility of the F-type High-Security Closed Prison on the island of Imralı, in order to examine the conditions under which Abdullah Öcalan and five other inmates who had recently been transferred to the establishment were held. Particular attention was paid to communal activities offered to all prisoners and the application in practice of the prisoners' right to receive visits from relatives and lawyers.

C. European Commission against Racism and Intolerance (ECRI)

Publication of ECRI's Annual Report 2009 (08.07.2010)

The Chair of ECRI, Nils Muiznieks, expressed alarm about the general rise in racist violence in Europe. "In the last year there has been a hardening of the immigration debate and a rise in xenophobic and intolerant attitudes in general, including virulent verbal attacks and violent incidents", he said. The Chair of ECRI regretted that 29 Council of Europe member states have not yet ratified Protocol 12 to the European Convention on Human Rights, which prohibits discrimination in general, and called on them to do so as soon as possible.

ECRI published on 8 July its annual report, which examines the main trends in the field of racism, racial discrimination, xenophobia, antisemitism and intolerance in Europe. In the report, ECRI expresses its concern about the effects of the economic crisis on vulnerable groups – in particular the rise in unemployment and cuts to social services. The negative climate of public opinion, fuelled by increasingly xenophobic political speech, has led to immigrants being held responsible for unemployment and the deterioration of security. ECRI calls on European states to apply their laws

effectively to prevent and combat racism, intolerance and xenophobia, and to fill the legal gaps that still exist. Although ECRI acknowledges that some states have adopted appropriate legislation, it also stresses that its application "often remains a challenge". Other issues of concern for ECRI are the persistence of the widespread police practice of racial profiling, abuses in the fight against terrorism and police brutality against vulnerable groups. The report concludes that: Roma and Travellers continue to experience open hostility and social exclusion, as well as raids against their settlements and murders; Anti-Black racism persists in Europe, often translated into attacks against this community, and colour related insults are frequent in sports events; Muslims continue to be discriminated against in employment, law enforcement, town-planning, immigration and education, and lately they are targeted by specific legal restrictions. States need to do more to encourage tolerance of religious diversity; Antisemitism persists in Europe. Attacks on synagogues and Jewish cemeteries and Holocaust denial continue to be issues of concern. Annual report

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

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E. Group of States against Corruption (GRECO)

Group of States against Corruption publishes report on Greece (07.07.2010)

GRECO published on 7 July its Third Round Evaluation Report on Greece, in which it criticises its criminal legislation as being excessively complex and finds that the transparency of the funding of political parties and election campaigns needs to be improved**.** The report focuses on two distinct themes: criminalisation of corruption (link to the report), and transparency of party funding (link to the report), and addresses 27 recommendations to Greece. GRECO will assess the implementation of these recommendations in 2012. Regarding the criminalisation of corruption GRECO concludes that Greek criminal legislation covers all offences of corruption and trading in influence criminalised by the Council of Europe Criminal Convention on Corruption and its Additional Protocol. However, the consistency and effectiveness of their application are affected by the complexity of the legal framework.

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

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

Ireland 30th state to become Party to the Council of Europe Convention on Action against Trafficking in Human Beings (13.07.2010)

The Council of Europe Convention on Action against Trafficking in Human Beings entered into force on 1 February 2008. The Convention was ratified by Ireland on 13 July 2010 and will enter into force for this state on 1 November 2010.

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

Part IV: The inter-governmental work

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

6 July 2010

Georgia signed the Protocol to the European Convention on Consular Functions concerning the Protection of Refugees (ETS No. 061A).

7 July 2010

Slovenia ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177).

8 July 2010

Bulgaria ratified the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (ETS No. 181).

9 July 2010

Poland signed the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (CETS No. 208).

Cyprus signed the Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research (CETS No. 195).

13 July 2010

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

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/RecChL(2010)6E / 07 July 2010
Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Ukraine (Adopted by the Committee of Ministers on 7 July 2010 at the 1090th meeting of the Ministers' Deputies)

CM/ResChS(2010)6E / 07 July 2010
Resolution - Collective complaint No. 47/2008 by Defence for Children International (DCI) against the Netherlands (Adopted by the Committee of Ministers on 7 July 2010 at the 1090th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Report on minority languages in Ukraine (08.07.2010)

The Committee of Ministers adopted the first report on the application of the European Charter for Regional or Minority Languages in Ukraine on 8 July. The Council of Europe urges Ukraine to improve the situation of minority languages in the field of education, notably by securing the right to receive education in minority languages.

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*

Monitoring visit by PACE co-rapporteurs to Georgia (09.07.2010)

Kastriot Islami (Albania, SOC) and Michael Jensen (Denmark, ALDE), co-rapporteurs of PACE for the monitoring of Georgia, made a fact-finding visit to this country from 12 to 15 July, as part of their ongoing assessment of the honouring of Georgia's Council of Europe obligations and commitments. Discussions focused on the reform of the justice sector, human rights protection, decentralisation and local self-government, media pluralism as well as the fight against corruption. During their visit, they met, in particular, the President of the Republic Mikheil Saakashvili, the Chairman of the Parliament David Bakradze, the Minister of the Interior Ivane Merabishvili, the Minister of Justice Zurab Adeishvili, the Minister of Corrections and Legal Assistance Khatuna Kalmakhelidze and the Minister of Regional Development and Infra-Structure Ramaz Nikolaishvili.

Talks were also scheduled with representatives of the parliamentary majority and opposition and with representatives of the non-parliamentary opposition, the Chairman of the Supreme Court Konstantine Kublashvili, the Human Rights Adviser, the Mayor of Tbilisi George Ugulava and other representatives of local authorities. The co-rapporteurs also met representatives of the media and of NGOs working on human rights and anti-corruption issues.

- *Themes*

Dick Marty strongly critical of the Chechen President's new threats to the staff of Memorial (09.07.2010)

The Rapporteur of the PACE on the human rights situation in the North Caucasus, Dick Marty (Switzerland/ALDE) has described as "unacceptable and unworthy" the words of Chechen President Ramzan Kadyrov, who publicly described the staff of Russian human rights NGO Memorial as "enemies of the people, enemies of the law, enemies of the state". According to Dick Marty, "such words, similar to those uttered by Mr Kadyrov against Natalya Estemirova, a member of Memorial's staff subsequently murdered last summer, are barely disguised threats". He called on the federal Russian authorities "to ask the Chechen authorities to ensure the protection of human rights defenders and further to intensify dialogue with civil society, following the example of President Medvedyev's meeting with representatives of NGOs in May".

On 22 June 2010 the PACE unanimously approved a critical report on the human rights situation in the North Caucasus prepared by Mr Marty.

Dick Marty: Natalia Estemirova's murderers have still not been punished (14.07.2010)

Dick Marty, rapporteur of PACE on the human rights situation in the North Caucasus, has pointed out that the murderers of Natalia Estemirova, a member of Russian NGO Memorial, in Chechnya on 14 July 2009 have so far escaped punishment. "The Russian authorities must do everything possible to achieve justice in this emblematic case, as well as in others such as the murder of Anna Politkovskaya, so as to send a clear signal that the cycle of abuse and impunity will no longer be tolerated in the Chechen Republic. There is a vital need as well for an efficient and transparent investigation of alleged consent, or even complicity, by certain authorities, in order to restore people's trust in their institutions. Without such trust, there can be no effective fight against terrorism and extremism."

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

Dick Marty presented a report on the human rights situation to the Parliamentary Assembly of the Council of Europe in June. A few days before her murder, Natalia Estemirova had been invited by Mr Marty to address the Committee on Legal Affairs and Human Rights in September 2009. Report

PACE and EP cooperation in the field of women's rights: towards common standards (14.07.2010)

Evoking the drafting of the future EU directive on preventing and combating trafficking in human beings, José Mendes Bota (Portugal, EPP/CD), Chairperson of the PACE Committee on Equal Opportunities for Women and Men, expressed his concern "regarding duplication of Council of Europe and the European Union's work, and a possible proliferation of monitoring processes", while addressing the EP Committee on Women's Rights and Gender Equality in Brussels. "Duplication of monitoring mechanisms is costly, and this is likely to be unaffordable for our States in times of financial restrictions," he pointed out. "We must also avoid that the new legal instruments that may be developed by the European Union […] result in less demanding standards," he added. Mr Mendes Bota also underlined that the Lisbon Treaty in force since December 2009, raises a number of legal challenges for the conventional system of the Council of Europe and offers new opportunities for co-operation between the European Parliament and the Parliamentary Assembly. "I believe this is a political momentum we have to use to join our forces," he said. "Gender equality is obviously an issue of common interest; our respective political assemblies seek the same objectives, namely providing women with more rights, more equality and equal opportunities," he added.

Carina Hägg promotes a legally binding instrument to combat violence against women (16.07.2010)

"Combating violence against women, especially in the private sphere, should be enhanced in Europe with a legally binding instrument. I therefore invite the Ministers of Justice to support the current drafting of a convention which can effectively combat the most widespread and most severe forms of violence against women, including domestic violence, and that should encompass the gender dimension", declared in Tromsø Carina Hägg (Sweden, SOC), Chair of the PACE Sub-Committee on violence against women, at the opening of the 29th Conference of Council of Europe Ministers of Justice on 16 July.

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

A. Country work

Commissioner Hammarberg requests information from Italy on alleged human rights violations of Eritrean migrants in Libya (06.07.2010)

Commissioner Hammarberg published on 6 July two letters addressed to the Italian Ministers of Foreign Affairs, Franco Frattini, and of Interior, Roberto Maroni, concerning the alleged ill-treatment of a group of Eritrean migrants, including asylum seekers, in detention in Libya and their possible forced return to Eritrea. The Commissioner received reports indicating that late June, approximately 250 Eritreans were moved to a detention centre in Sebha and that the Libyan military police has used violence, leaving several migrants seriously injured. Read the letter to the Minister of Foreign Affairs of Italy; Read the letter to the Minister of Interior of Italy

Turkey: "Too many children are detained" (08.07.2010)

"There is a need of radical reform of the juvenile justice system in Turkey", said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, publishing on 8 July two letters sent to the Turkish Government on human rights issues. Following the Commissioner's visit to Turkey from 23 to 26 May 2010, the letters were sent to the Ministers of Justice and of Interior, focusing mainly on juvenile justice, and implementation of anti-terrorist laws, as well as on the human rights of internally displaced and of asylum seekers. Read the letter to the Minister of Justice of the Republic of Turkey and the reply; Read the letter to the Minister of Interior of the Republic of Turkey and the reply

B. Thematic work

Children victimised when families are forced to return to Kosovo[*] (09.97.2010)

Several thousand persons have been forcibly returned to Kosovo by west European states in the last few years, mainly from Austria, Germany, Sweden and Switzerland. Among the returnees have been persons belonging to minorities, and in particular Roma, Ashkali and Egyptians. For them these deportations have not had a happy ending. The UN agency for children, UNICEF, has now published a report on what happened to those sent back from Germany. (more)

Murder of Natalia Estemirova: time to do justice (15.07.2010)

"One year has passed since human rights defender Natalia Estemirova was brutally murdered. Those guilty of this horrible and cowardly crime have still not been brought to justice. This is unacceptable" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing today his latest human rights comment. Natalia Estemirova was one of the leading members of the human rights organisation Memorial. Her courage and personal dedication to human rights protection in the Chechen Republic was unique. Press release in Russian; Read the Human Rights Comment

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

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

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

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[*] No information deemed relevant for the NHRSs for the period under observation