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**Regular Selective Information Flow
(RSIF)
from the Office of the Commissioner for Human Rights
to
the Contact Persons of the National Human Rights Structures
(NHRs)**

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The selection of the information contained on this Issue and deemed relevant to NHRs is made under the responsibility of the NHRs Unit and the Legal Advice Unit of the Office of the Commissioner.

*For any queries, please contact:
irene.kitsou-milonas@coe.int (Legal Advice Unit) or olivier.matter@coe.int (NHRs Unit)*

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Introduction

This issue is part of the "Regular Selective Information Flow" (RSIF) which Commissioner Hammarberg promised to establish at a round table with the heads of the national human rights structures (NHRSS) in April 2007 in Athens. The purpose of the RSIF is to keep the national structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the Commissioner's Office carefully selects and tries to present to 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 will cover two weeks and will be sent out by the Commissioner's Office a fortnight after the end of each observation period. This means that all information contained in any given issue will be between two and four weeks old.

Unfortunately, the issues will be available in English only for the time being due to the limited means of the Commissioner's Office. However, the majority of the documents referred to exists in English and French and can be consulted on the web sites that are indicated in the issues.

The selection of the information included in the issues is made by the Commissioner's Office under its responsibility. It is based on what the NHRSS and the Legal Advice Units believe could be 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 the Commissioner's Office any feed-back that may allow for the improvement of the format and the contents of this tool.

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

We kindly invite you to use the [INFORMATION NOTE No. 111](#) (provisional version) on the Court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases which the Jurisconsult, the Section Registrars and the Head of the aforementioned Division examined in August and September 2008 and sorted out as being of particular interest.

A. Judgments

1. Judgments deemed of particular interest to NHRs

The judgments presented under this heading are the ones for which a separate press release is issued by the Registry of the Court as well as other judgments which the Office of the Commissioner considers relevant for the work of the NHRs. They correspond also to the themes addressed in the Peer-to-Peer Workshops. The judgments are thematically grouped. The information, except for the comments drafted by the Office of the Commissioner, is based on the [press releases of the Registry of the Court](#).

Some judgments are only available in French.

- **First “pilot judgment” procedure brought to a successful conclusion: Bug River cases closed**

The European Court of Human Rights has just struck out the remaining 176 “Bug River” (*sprawy zabużańskie*) cases against Poland, finding that the Polish Government has successfully put in place an effective compensation scheme which is available to the nearly 80,000 people forced to abandon their properties between 1944 and 1953 in the eastern provinces of pre-war Poland.

In its Grand Chamber judgment [Broniowski v. Poland](#) (application no. 31443/96) (22 June 2004), the Court held not only that there had been a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights in the applicant's case but also that Poland was to take steps to ensure Bug River claimants in general were properly compensated. This was the first time that the Court had used what has become known as a “pilot judgment” procedure, a device for dealing with systemic problems. Following the judgment, in July 2005 the Polish Government passed a new law setting the ceiling for compensation for Bug River property at 20% of its original value.

On 4 December 2007 in its decisions to strike out the cases [Wolkenberg and Others v. Poland](#) (no. 50003/99) and [Witkowska-Tobola v. Poland](#) (no. 11208/02), the Court established that the new Bug River compensation scheme satisfied the requirements set out in its judgment in [Broniowski v. Poland](#). Subsequently, the Court struck out a further 110 cases. The remaining 176 cases have now been struck out in a global decision marking the end of the Court's “pilot-judgment” procedure in this case.

Having concluded that the new compensation scheme was effective in practice, the Court has now decided that the continued application of the pilot-judgment procedure in the case is no longer justified.

Similar complaints continue, however, to be lodged every month and as a result the Court is called upon to give individual decisions in cases where the Convention issue has been resolved at domestic level. The Court does not therefore rule out in the future declining to examine such cases.

- **Grand Chamber Judgment, [Kovačić and Others v. Slovenia](#) (nos. 44574/98, 45133/98 and 48316/99) - Struck out of the list (continued examination not justified) – Freezing of foreign-currency accounts – Succession of states**

The applications concern the freezing of the applicants' hard-currency savings accounts at the Zagreb office of a Slovenian bank, the Ljubljana Bank (*Ljubljanska banka*), prior to the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) in 1991.

As an emergency response to the hyper-inflation suffered by the SFRY in the 1980s, the withdrawal of foreign currency was progressively restricted by legislation and in 1988 the Ljubljana Bank froze all its foreign-currency accounts. Almost all the applicants' attempts to withdraw the money from their accounts failed.

The applicants and the Croatian Government considered that since 1991, the year Slovenia and Croatia became independent, liability for the debts owed to the customers of the Croatian branch of the Ljubljana Bank should have been assumed by that bank or by the Slovenian State. Conversely, the Slovenian Government took the view that they should be divided among the successor States to the SFRY under the State succession arrangements.

The applicants complained of a violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights in that they had been prevented by Slovenian law from withdrawing foreign currency which they had deposited with "the Ljubljana Bank – Zagreb Main Branch" before the dissolution of the SFRY. Mr Kovačić also complained that he had been a victim of discrimination in relation to the enjoyment of his property rights, contrary to Article 14 of the Convention.

The Court decided unanimously to **strike the cases out of its list** as two of the three applicants had obtained reimbursement in full of their foreign-currency accounts with interest and the third applicant had issued proceedings in the Croatian courts which were still pending.

- **Cases concerning violations of human rights in the Chechen Republic:**

[Albekov and Others v. Russia](#) (application no. 68216/01) – 9 October 2008 - Violation of Article 2 (right to life and failure to conduct an effective investigation) – Violation of Article 13 (right to an effective remedy - Failure to comply with Article 38 § 1 (a) (obligation to furnish necessary facilities for the examination of the case)

[Yusupova and Zaurbekov v. Russia](#) (no. 22057/02) – 9 October 2008 - Violations of Article 2 (life and investigation) - No violation of Article 3 (treatment in respect of the applicants' relative) - Violation of Article 3 (treatment in respect of the applicants) - Violation of Article 5 - Violation of Article 13 in conjunction with Article 2 - No violation of Article 13 in conjunction with Article 3 - Violation of Article 38 § 1 (a)

[Zulpa Akhmatova and Others v. Russia](#) (nos. 13569/02 and 13573/02) – 9 October 2008 - Violation of Article 38 § 1 (a) - Violations of Article 2 (life and investigation) - Violation of Article 3 (treatment in respect of the applicants) - Violation of Article 5 - Violation of Article 13 in conjunction with Article 2

[Khalidova and Others v. Russia](#) (no. 22877/04) – 2 October 2008 – Violations of Article 2 (life and investigation in respect of the applicants' relatives) – Violation of Article 3 (treatment in respect of the applicants) - Violation of Article 5 - Violation of Article 13

[Lyanova and Aliyeva v. Russia](#) (nos. 12713/02 and 28440/03) – 2 October 2008 - Violations of Article 2 (life and investigation in respect of the applicants' relatives) – Violation of Article 3 (treatment in respect of the applicants) - Violation of Article 5 - Violation of Article 13 - Violation of Article 38 § 1 (a)

In this case, the European Court of Human Rights held Russia responsible for 'presumed death' of Chechen teenagers.

[Rasayev and Chankayeva v. Russia](#) (no. 38003/03) – 2 October 2008 - Violations of Article 2 (life and investigation) with respect to the applicants' relatives – Violation of Article 3 (treatment) with respect to the applicants - Violation of Article 5 - Violation of Article 13

- **Requirements regarding effective investigation for police misconduct**

[Akulinin and Babich v. Russia](#) (application no. 5742/02), [Belousov v. Russia](#) (no. 1748/02) and [Samoylov v. Russia](#) (no. 64398/01) 2 October 2008

We invite you to read these three judgments. They deal inter alia with the role of the prosecutor; the lack of promptness of the investigation; the independence of the forensic doctor; the assessment of evidence.

[Saya and others v. Turkey](#) (no. 4327/02), 7 October 2008 (see also below for violation of Article 11)

“The Court reiterates its earlier findings in a number of cases that the investigation carried out by the administrative councils cannot be regarded as independent since they are chaired by the governors or their deputies, and composed of local representatives of the executive, who are hierarchically dependent on the governor, an executive officer linked to the very security forces under investigation (see, inter alia, Ipek v. Turkey, no. 25764/94, § 174, 17 February 2004; Talat Tepe, cited above, § 84; Oğur v. Turkey [GC], no. 21594/93, § 91, ECHR 1999-III). In this regard, the willingness of the investigators to give credence to the accounts offered by their colleagues confirms the Court's previous findings. The Court therefore concludes that the national authorities failed to carry out an effective and independent investigation into the applicants' allegations of ill-treatment” (paras 27-28).

[Oleg Nikitin v. Russia](#) (no. 364110/02), 9 October 2008

“The issue is consequently not so much whether there was an investigation as whether it was conducted diligently, whether the authorities were determined to identify and prosecute those responsible, and, accordingly, whether the investigation was effective (see Krastanov v. Bulgaria, no. 50222/99, § 59, 30 September 2004). In the light of the foregoing the Court is unable to establish the scope and the nature of the investigation of the applicant's allegations. In particular, the Court is unable to establish whether the domestic authorities took the necessary measures to gather medical evidence about the applicant's injuries, what assessment, if any, was made of that evidence, whether the domestic authorities took the necessary steps to identify the alleged perpetrators and to question them, and whether any external authorities were involved in the investigation. It therefore considers that the investigation carried out in the instant case did not comply with the requirements of Article 3 of the Convention” (paras 39-40).

- **Other judgments deemed of particular interest to NHRs:**

[Moiseyev v. Russia](#) (no. 62936/00), 9 October 2008- Applicant charged with high treason -Three violations of Article 3 (treatment) - Violation of Article 5 §§ 3 and 4- Violations of Article 6 § 1 (length) (fairness)- Violation of Article 6 §§ 1 and 3 (b) and (c)- No violation of Article 7- Two violations of Article 8

The applicant, Valentin Ivanovich Moiseyev was arrested in July 1998 and, accused of having disclosed classified information to a South Korean intelligence agent, was charged with high treason. He was convicted as charged by Moscow City Court in August 2001. That decision was upheld by the Supreme Court in January 2002.

The Court held unanimously that there had been a violation of Article 3 on account of the **conditions of the applicant's detention in Lefortovo remand prison.**

The Court concluded unanimously that there had been a violation of Article 3 on account of **the conditions of the applicant's transport between the remand prison and the courthouse:** *“In the present case the applicant was transported more than one hundred and fifty times in standard-issue prison vans which were sometimes filled beyond their design capacity. Given that he had to stay inside that confined space for several hours, these cramped conditions must have caused him intense physical suffering. His suffering must have been further aggravated by the absence of adequate ventilation and lighting, and unreliable heating. Having regard to the cumulative effect which these*

conditions of transport must have had on the applicant, the Court finds that the conditions of transport from the remand centre to the courthouse and back amounted to “inhuman” treatment within the meaning of Article 3 of the Convention. It is also relevant to the Court’s assessment that the applicant was subjected to such treatment during his trial or at the hearings with regard to applications for an extension of his detention, that is, when he most needed his powers of concentration and mental alertness”. (para 135; emphasis added).

Taking into account the cumulative effect of the applicant’s detention in the extremely small cells of the convoy premises at the Moscow City Court without ventilation, food, drink or free access to a toilet, the Court held unanimously that there had been a further violation of Article 3 on account of the **conditions of the applicant’s confinement at the Moscow City Court.**

The Court held unanimously that there had been a violation of Article 5 § 3 on account of Mr Moiseyev’s pre-trial detention which lasted over two years and six months, and a violation of Article 5 § 4 on account of the Supreme Court’s failure to examine, or belated examination of, appeals against decisions rejecting requests for release. The Court held unanimously that there had been a violation of Article 6 § 1 on account of the lack of independence and impartiality of the Moscow City Court, and the excessive length of the criminal proceedings, which had lasted three years and six months. The Court held that there had been a violation of Article 6 §§ 1 and 3 (b) and (c). The Court held unanimously that Article 8 had been breached on account of unjustified restrictions on both the applicant’s family visits and correspondence.

The Court held unanimously that there had been no violation of Article 7: *“the Court notes that both the RSFSR Criminal Code (Articles 64 and 65) and the Criminal Code of the Russian Federation defined the concept of “espionage” in similar terms. These provisions explicitly referred to the collection of “other information” (that is, not constitutive of a State secret) at the request of a foreign intelligence service. The Court considers that the consequences of failure to comply with those laws were adequately foreseeable, not only with the assistance of legal advice, but also as a matter of common sense (compare Kuolelis and Others v. Lithuania, nos. 74357/01, 26764/02 and 27434/02, § 121, 19 February 2008). Furthermore, the Court reiterates that an interpretation of the scope of the offence which was – as in the present case – consistent with the essence of that offence, must, as a rule, be considered as foreseeable (see Jorgic v. Germany, no. 74613/01 [...]).”*

Rusu v. Austria (no. 34082/02) – 2 October 2008 – Violation of Article 5 §§ 1 (f) and 2 – Unlawfulness of the detention pending expulsion

The applicant, a Romanian national, was returned to Austria by the Hungarian border police. She was detained pending expulsion. She complained about the unlawfulness of her detention and that she was not informed promptly in a language which she understood of the reasons for that detention. She relied on Article 5 §§ 1 and 2 (right to liberty and security) of the European Convention on Human Rights.

The European Court of Human Rights noted that the information sheets issued to the applicant had not contained any specific factual information concerning her detention or arrest and had referred to an out-of-date Aliens Act. It had only been ten days later that the applicant had been informed of the specific reasons and correct legal grounds for her detention when the decision of 25 February had been translated by an interpreter. The Court therefore held that there had been a violation of Article 5 § 2 on the ground that the information given to the applicant concerning the reasons for her arrest and detention had not been sufficient or given to her promptly. The Court further found it striking that the Austrian authorities had paid no attention to the applicant’s situation: she had not apparently intended to stay illegally in Austria or evade expulsion proceedings. The Court reiterated that detention of an individual was such a serious measure that it would be arbitrary unless justified as a last resort. Considering that there had been an element of arbitrariness in the applicant’s detention, the Court therefore held unanimously that there had also been a violation of Article 5 § 1 (f).

Bogumil v. Portugal (no. 35228/03) – 7 October 2008 – Violation of Article 6 §§ 1 and 3 (c) – Drug trafficking – Lack of legal assistance – No violation of Article 3 – No violation of Article 8

In November 2002, when the applicant, a Polish national, arrived at Lisbon airport from Rio de Janeiro, he was searched by customs officers, who found several packets of cocaine hidden in his shoes. The applicant informed them that he had swallowed a further packet, which was in his stomach. He was taken to hospital and underwent surgery to remove the packet from his body. Charges were brought against him for drug trafficking, and he was placed in pre-trial detention. During the initial phase of the proceedings, the applicant was assisted by a trainee lawyer. In January 2003, in view of the harshness of the applicant's potential sentence, a new lawyer, who was supposed to be more experienced, was assigned to the case. However, he only acted in the proceedings to request his discharge three days before the trial. A new duty lawyer was assigned on the very day the trial began and only had five hours to study the case file. In September 2003 the Lisbon Criminal Court convicted him on the charges, sentenced him to four years and ten months' imprisonment and ordered his exclusion from Portugal. Relying on Article 6 (right to a fair trial), the applicant alleged that he had not received genuine legal assistance during the criminal proceedings against him. Moreover, relying on Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private and family life), he complained that he had sustained serious physical duress on account of the surgery performed on him.

Concerning the complaint about the lack of legal assistance, the Court found that the circumstances of the present case required the domestic court, rather than remaining passive, to ensure concrete and effective respect for the applicant's defence rights, which it failed to do. Accordingly, it held unanimously that there had been a violation of Article 6 §§ 1 and 3 (c) taken together.

As regards the alleged physical duress against the applicant on account of the surgery, the Court did not find it established, the evidence being insufficient, that the applicant had given his consent or that he had refused and had been forced to undergo the operation. The Court considered that the operation had been required for therapeutic reasons and had not been carried out for the purpose of collecting evidence, as the applicant risked dying from intoxication. It was a straightforward operation and the applicant had received constant supervision and an adequate medical follow-up. As to the effects of the operation on the applicant's health, the Court did not find it established, having regard to the evidence in the case file, that the ailments from which the applicant claimed to have been suffering since then were related to the operation. Consequently, the Court considered that the operation had not been such as to constitute inhuman or degrading treatment and found that there had been no violation of Article 3. Lastly, considering that a fair balance had been struck between the public interest in protecting the applicant's health and his right to protection against physical or psychological duress, the Court further found that there had been no violation of Article 8.

Atanasova v. Bulgaria (no. 72001/01) – 2 October 2008 – Violation of Article 6 § 1 (fairness) (length) – National authorities' tardiness in dealing with the criminal proceedings – Discontinuation of the criminal proceedings – Obligation for the applicant to bring a new civil action to obtain compensation violates the applicant's right of access to a court

In January 1992, the applicant was injured in a road accident. In June 1994 she joined as a civil party the criminal proceedings brought against the driver presumed responsible, seeking compensation for the physical injury she had suffered. Ultimately, in June 2002, the Bulgarian courts found that her civil claim could not be examined because the criminal proceedings had been discontinued, the limitation period having expired. However, the applicant was told that it was still open to her to apply to the civil courts. She complained of the discontinuation of the criminal proceedings against the driver and that the criminal courts had not considered her civil claim. Relying on Article 6 § 1 (right to a fair trial) of the Convention, she complained of an infringement of her right of access to a court and of the length of the proceedings, which she considered excessive.

The Court noted that the applicant had used the possibility available to her in domestic law of joining criminal proceedings and seeking compensation by those means. She therefore had a legitimate expectation that the courts would eventually determine her claim one way or the other. It was solely because of the Bulgarian authorities' tardiness in dealing with the case that the limitation period had expired, and that as a result it had become impossible for the applicant to obtain a decision on her compensation claim via the criminal proceedings. In light of the principle laid down in [Anagnostopoulos v. Greece](#) of 3 April 2003, the Court took the view that in such circumstances, it was

formally correct to say that the applicant could seek compensation in the civil courts. However she could not be required to wait until, through the negligence of the judicial authorities, the prosecution of the offender had become time-barred, before bringing a new civil action a number of years after the accident, to obtain compensation for her injuries. The Court accordingly held, by five votes to two, that there had been a violation of Article 6 § 1 on account of the infringement of the applicant's right of access to a court.

R.K. and A.K. v. the United Kingdom (n° 38000/05) - 30 September 2008 – No violation of Article 8 – Violation of Article 13 – Medical misdiagnosis – Brittle Bone disease – Interim care order

The applicants, R.K., and his wife, A.K., have a daughter, M., who was born in July 1998. In September 1998 M. was taken to hospital with a fractured femur; doctors concluded that the injury had not been accidental and she was placed in the care of her aunt. Following another injury, M. was diagnosed with brittle bone disease. The case concerned the applicants' complaint that their daughter was placed temporarily in care due to a medical misdiagnosis. They relied on Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy).

It was not disputed that the interim care order had interfered with the applicants' right to respect for their family life. That interference had been "in accordance with the law" and pursued the legitimate aim of protecting M.. Indeed, the authorities, medical and social, had a duty to protect children and could not be held liable every time genuine and reasonably-held concerns about the safety of children in their families were proved, retrospectively, to have been misguided. The Court considered that M., a three-month old baby, had suffered a serious and unexplained fracture and that the social or medical authorities could not be faulted for not immediately diagnosing brittle bone disease, a very rare and difficult condition to identify in small infants. Moreover, the baby had been placed within her extended family and in close proximity to her parents' home so that they could frequently and easily visit. As soon as another fracture had occurred outside of the applicants' care, further tests had been carried out and, within weeks, M. had been returned to her home. The Court was therefore satisfied that the domestic authorities had had relevant and sufficient reasons to take protective measures, which had been proportionate in the circumstances and had given due and timely account to the applicants' interests. Accordingly, the Court held unanimously that there had been no violation of Article 8.

However, the Court found that the applicants should have had available to them a means to claim that the local authority's handling of procedures had been responsible for any damage they had suffered and to claim compensation. As such redress had not been available at the relevant time, the Court held unanimously that there had been a violation of Article 13.

Koons v. Italy (no. 68183/01) – 30 September 2008 – No violation of Article 8 – Custody of a child – Thorough assessment of a family situation

The applicant is an American national who was born in 1955 and lives in New York. His son was born from his marriage with Mrs. S., a Hungarian national who had acquired Italian citizenship by naturalisation. The applicant and Mrs S. have been litigating in the Italian courts about who should have exclusive custody of their child since 1994. Mr Koons complained of the Italian courts' decisions, firstly to keep the child in Italian territory, thus preventing his son from visiting him at his home in the United States, and secondly to award custody to the mother, later to Rome social services and then to the mother again. He relied on Article 8 of the European Convention on Human Rights (right to respect for private and family life).

The European Court of Human Rights noted that the Italian authorities had made a thorough assessment of the family situation and the interests of all concerned, especially those of the child, in order to find the solution most likely to provide him with a stable home environment, a necessary condition for his healthy and balanced development. It considered that the Italian judicial authorities had made every effort to protect the higher interests of the child, while always recognising the applicant's right of contact, in a difficult situation marked by constant disagreement between the parties and their inability to put their son's well-being first. The Court held by five votes to two that there had been no violation of Article 8.

Mancevschi v. Moldova (no. 33066/04) – 7 October 2008 – Violation of Article 8 – Search of a lawyer’s apartment and office – Warrant formulated in broad terms

The case concerned, in particular, the complaint of the applicant, a lawyer, about a search of his apartment and office in the context of a murder investigation against one of his clients. He relied on Article 8 (right to respect for private and family life).

The Court considered that the search of the applicant’s apartment and office, in which he had kept his clients’ case files, had interfered with his rights guaranteed under Article 8, and that the interference had pursued the legitimate aim of the prevention of disorder or crime. Considering whether the interference was necessary in a democratic society, the Court was struck, in particular, by the fact that the warrant had been formulated in extremely broad terms, which had given unfettered discretion to the investigator to search for anything he wanted in both the applicant’s apartment and the law office. However, the applicant himself was not charged with, or suspected of, any criminal offence or unlawful activities and the Court noted the absence of any special safeguard to protect lawyer-client confidentiality. The Court held unanimously that the authorities had failed in their duty to give relevant and sufficient reasons for issuing the search warrants. It concluded that there had been a violation of Article 8.

Leroy v. France (no. 36109/03), 2 October 2008- No violation of Article 10- cartoons and terrorism- Proportionate interference with freedom of expression – Violation of Article 6 §1 – Failure to communicate to the applicant the report by the reporting judge and the date of the hearing

On 11 September 2001 the applicant submitted to *Ekaitza*’s (Basque weekly newspaper) editorial team a drawing representing the attack on the twin towers of the World Trade Centre, with a caption which parodied the advertising slogan of a famous brand: “We have all dreamt of it... Hamas did it”. The drawing was published in the newspaper on 13 September 2001. In its next issue, the newspaper published extracts from letters and emails received in reaction to the drawing.

In September 2002, the Pau Court of Appeal upheld the judgment of the first-instance court (conviction of the applicant and the newspaper’s publishing director of charges on charges of complicity in condoning terrorism and condoning terrorism; fine of EUR 1,500 each; publication of the judgment at their own expense in *Ekaitza* and two other newspapers).

The Court found that the grounds put forward by the authorities were “sufficient and relevant” and concluded that the interference with the applicant’s freedom of expression had been proportionate. The Court did not accept the applicant’s argument, namely that his real intention, was that of communicating his anti-Americanism through a satirical image and illustrating the decline of American imperialism. The main elements that were taken into account by the Court were the following: the drawing also supported violent reaction; through the choice of language the applicant diminished the dignity of the victims; the time factor (the date of the publication); the impact of the message in a politically sensitive region.

Concerning the violation of Article 6 §1, you may refer to paras 49-58 of the judgment.

Barb v. Romania (no. 5945/03), 7 October 2008 – Violation of Article 10 – Insult – Matter of general interest (unemployment) – Disproportionate conviction

On 25 November 1999 Mr Barb, a journalist, published in a national newspaper an article entitled “Hunedoara family mounts a 300 million-lei swindle” and sub-titled “The President of the Forum of Germans, P.D., promised 700 jobs in Germany, with no legal basis; 700 people have already been conned”. In September 2000 the County Court quashed the judgment of the Deva District Court in part, acquitting the applicant of defamation but upholding his sentence of a fine for insults.

The Court noted that the offending article concerned subjects that were in the general interest and were particularly topical for Romanian society, namely unemployment, the possibilities of finding a job abroad and alleged corruption in the administration. It further observed that the applicant’s remarks did not concern aspects of P.D.’s private life but rather his actions in the above-mentioned areas. It

moreover found that the activities of P.D. that were criticised by the applicant and that led to his conviction had been strictly confined to this general-interest subject-matter.

In addition, the Court found that the applicant's allegations amounted to factual statements or value judgments, and that the facts reported by the applicant were not devoid of a sufficient factual basis, apart from the error concerning the number of participants in the classes organised by P.D. However, this error could not in itself lead to the conclusion that the applicant acted in bad faith. Moreover, the domestic courts had never found the applicant to be acting in bad faith in that respect. The Court further observed that the domestic courts had not explained why the applicant's actions constituted either or both of the offences in question, simply setting out the facts and directly concluding that he was guilty. The Court also found that the wording used by the applicant in his article had not been regarded as manifestly abusive either by the injured party or by the domestic courts. For these reasons, the Court considered that the applicant's conduct, when examined as a whole, showed that he had acted in good faith and that his remarks had fallen within the acceptable degree of exaggeration and provocation.

[Éva Molnár v. Hungary](#) (no. 10346/05), 7 October 2008 – No violation of Article 11 (freedom of assembly and association)- Dispersion of demonstration – Lack of prior notification – Proportionality – [Saya and others v. Turkey](#) (no. 4327/02), 7 October 2008 – Violation of Article 11 – Prior notification – Dispersion of May Day celebrations by the police- Disproportionality

Following the 2002 legislative elections in Hungary, the applicant took part in a demonstration demanding a recount of the votes. The case concerned her complaint that that demonstration had been dispersed simply because the police had not been given prior notification. The Court recalled its case law regarding prior notifications (we invite you to read paras 35-38 of the judgment) and stated that the right to hold spontaneous demonstrations may override the obligation to give prior notification to public assemblies only in special circumstances, namely if an immediate response to a current event is warranted in the form of a demonstration. In particular, such derogation from the general rule may be justified if a delay would have rendered that response obsolete. The Court observed that in the present case the procedural requirements regarding prior notification did not allow for unreasonable restrictions on freedom of assembly. In addition, the Court emphasised that the demonstrators gathered at Kossuth Square at about 1 p.m. and that the applicant joined them at about 7 p.m. whereas the police did not break up the demonstration until about 9 p.m. The Court considered that, in these circumstances, the applicant had had sufficient time to show solidarity with her co-demonstrators. Thus it found that the ultimate interference with the applicant's freedom of assembly did not appear to have been unreasonable. The Court was satisfied that the police had shown the necessary tolerance towards the demonstration, although they had had no prior knowledge of the event, which inevitably disrupted the circulation of the traffic and caused a certain disturbance to public order.

On 1 May 1999 a group of people, including the applicants, started to walk towards the amphitheatre for the celebrations. They were stopped by police officers. Stating that they had obtained prior authorisation, the group attempted to continue its march. The police then intervened to disperse the group; the applicants were allegedly injured during this incident as a result of the force used by the police. The applicants were arrested, taken to the hospital, where they were examined by a doctor, and then taken into custody. They were released the next day. After examining a video recording of the incident, the Adiyaman Public Prosecutor delivered a decision not to prosecute 70 demonstrators, including the applicants.

The Court noted that appeared from the evidence, in particular from the decision not to prosecute issued by the Adiyaman Public Prosecutor, that the applicants had obtained prior authorisation from the Adiyaman Governor to celebrate May Day in the Adiyaman Amphitheatre. While they were walking along the pavement, the police stopped them and used force to disperse the group, without issuing a prior warning. The applicants were subsequently arrested, but released the following day. The Court also noted from the decision of the Public Prosecutor that the group had not presented a danger to public order, or engaged in acts of violence. In the Court's view, where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance. Accordingly, the Court considered that in the instant case the forceful intervention of the police was disproportionate and was not necessary for the prevention of disorder within the meaning of the second paragraph of Article 11 of the Convention.

Patyi and others v. Hungary, (no. 5529/05), 7 October 2008 – Violation of Article 11 – Disproportionate ban of a peaceful assembly

The demonstrations consisted of standing silently in line on the pavement in front of the Prime Minister's house. The Court observed that it was clear from the pictures attached to the case file that the space in question was wide enough – approximately five metres – to allow other pedestrians to walk by during a demonstration. Moreover, the Court is not persuaded that, in the given circumstances, the demonstrators would indeed have hindered traffic. The Court noted that there was no evidence in the case file to suggest that the demonstrations would have been violent or would have represented a danger to public order. The Court reiterated that, “where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance” (*Oya Ataman v. Turkey*, no. 74552/01, 5 December 2006, §§ 41-42). The ban has therefore not been shown to have been necessary in a democratic society in order to achieve the aims pursued.

Forminster Enterprises Limited v. the Czech Republic (no. 38238/040029) – 9 October 2008 – Violation of Article 1 of Protocol No 1 – Seizure of shares in the framework of suspected serious economic crimes – Lawfulness – Length of the seizure

The applicant, Forminster Enterprises Limited, is a company registered in Cyprus. In 1997, the applicant company entered into a purchase agreement with a company incorporated under Czech law. The gist of the applicant company's complaint consisted in the allegation that shares in its possession had been seized contrary to Article 1 of Protocol No. 1 (protection of property) and that it had lost control over them as a result of that seizure. The seizure took place within the framework of criminal proceedings instituted against a member of the Czech company's board of directors.

The Court acknowledged the importance of conducting investigations of suspected serious economic crimes with due diligence in order to ensure that these crimes were properly assessed and the proceedings duly terminated. Although Czech criminal law did not provide the applicant company with sufficient procedural guarantees within the meaning Article 1 of Protocol No. 1, the Court considered that the seizure was lawful due to the nature of the review by the Constitutional Court. However, taking into account the length of the seizure of the applicant company's shares – more than eleven years – and the considerable value of those assets, it found unanimously that there had been a violation of Article 1 of Protocol No. 1.

Akimova v. Azerbaijan (no. 19853/03), 9 October 2008- Friendly settlement – Article 1 of Protocol 1- enforcement of an eviction order against IDPs

In a [judgment of 27 September 2007](#), the Court found that the domestic authorities' decision to postpone, for an indefinite period of time, the enforcement of an eviction order against internally displaced persons illegally occupying the applicant's apartment had amounted to an unlawful interference with the peaceful enjoyment of her possessions, in breach of Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights.

The case has been struck out following a friendly settlement in which 10,000 New Azerbaijani manats (approximately 8,579 euros (EUR)) is to be paid for any pecuniary and non-pecuniary damage and costs and expenses. In addition, the Court had regard to the fact that, following a decision of the Plenum of the Supreme Court of 21 January 2008, the applicant's possession of her apartment had been restored on 14 March 2008.

2. All the other judgments issued in the period under observation except repetitive cases (cf. below under 3) and length of proceedings cases (cf. below under 4)

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 30th September 2008: [here](#).

- press release by the Registrar concerning the Chamber judgments issued on 2nd October 2008: [here.](#)
- press release by the Registrar concerning the Chamber judgments issued on 7th October 2008: [here.](#)
- press release by the Registrar concerning the Chamber judgments issued on 9th October 2008: [here.](#)

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key Words by the Office of the Commissioner</u>	<u>Link to the case</u>
Bulgaria	9 Oct. 2008	Kalkanov (no. 19612/02)	Violation of Article 6 § 1 (fairness)	Refusal by the Supreme Court of Cassation to examine an argument submitted in the applicant's initial statement	(link)
Bulgaria	9 Oct. 2008	Valentin Ivanov (no. 76942/01)	Violation of Article 6 § 1 (length) and of Article 13 in conjunction with Article 6 § 1	Excessive length of the criminal proceedings and lack of an effective remedy for this excessive length	(link)
Croatia	9 Oct. 2008	Brajović-Bratanović (no. 9224/06)	Violation of Article 1 of Protocol No. 1 and of Article 6 § 1 (length)	Applicant's inability to repossess her flat ; length of the civil proceedings	(link)
Croatia	9 Oct. 2008	Gashi (no. 32457/05)	Just satisfaction	Just satisfaction following a violation of Article 1 of Protocol 1	(link)
Cyprus	2 Oct 2008	Kolona (no. 28025/03)	Just satisfaction Struck out	Friendly settlement reached following a previous violation of Article 1 of Protocol 1 and of Article 8	(link)
Italy	30 Sept. 08	Marchi (no. 58492/00)	No violation of Article 1 of Protocol No. 1	The applicant did not use the possibility to obtain the full market value of her property after expropriation	(link)
Poland	7 Oct. 2008	Dublas (no. 48247/06)	Violation of Article 5 § 3 and of Article 6 § 1 (length)	Excessive length of detention and of criminal proceedings	(link)
Poland	7 Oct. 2008	Raźniak (no. 6767/03)	No violation of Article 5 § 3	No excessive length of pre-trial detention	(link)
Poland	30 Sept. 08	Markoń (no. 2697/06)	Violation of Article 5 § 3	Excessive length of the detention on remand	(link)
Romania	30 Sept. 08	Crăciun (no. 5512/02)	Violation of Article 6 § 1 (length)	Excessive length of criminal proceedings (14 years and four months for two levels of jurisdiction)	(link)
Russia	9 Oct. 2008	Abramyan (no. 10709/02)	Violation of Article 6 § 1 (fairness) and of Article 6 §§ 1 and 3 (a) and (b)	Recharacterisation of the offence	(link)
Russia	9 Oct. 2008	Itslayev (no. 34631/02)	No violation of Article 6 § 1	Legitimate aim due to the statutory time-limits for lodging claims at national level	(link)

Russia	9 Oct. 2008	Trochev (no. 6396/05)	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure over a significant period to comply with the final judicial decisions granting compensation for unlawful detention and conviction	(link)
Turkey	30 Sept. 08	Işıldak (no. 12863/02)	Violation of Article 8	Unlawfulness of a search without a warrant	(link)
Turkey	30 Sept. 08	Koç and Others (no. 38327/04)	Violation of Article 8	Control of prisoner's correspondence	(link)
Turkey	30 Sept. 08	Mehmet Şahin and Others (no. 5881/02)	No violation of Article 3 Violation of Article 5 § 3	Evidence of ill-treatment not established ; Excessive length of detention in police custody (nine days)	(link)
Turkey	30 Sept. 08	Melek Sima Yılmaz (no. 37829/05)	Violation of Article 6 § 1 (fairness)	Unfairness of disciplinary and administrative proceedings (applicant's dismissal from her teacher's post on the ground that she had not complied with the dress code)	(link)
Turkey	30 Sept. 08	Nakçi (no. 25886/04)	Violation of Article 8	Control of prisoner's correspondence	(link)
Turkey	30 Sept. 08	Yakışır (no. 51965/99)	Violation of Article 1 of Protocol No. 1	Delay in executing a judgment (compensation for unlawful detention) and inadequacy of the default interest attached to the compensation.	(link)

3. Repetitive cases

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key words by the Office of the Commissioner</u>
Portugal	30 Sept. 2008	Companhia Agrícola Cortes e Valbom S.A. (no. 24668/05)	Violation of Article 1 of Protocol No. 1	Agrerian reform programme
Romania	30 Sept. 2008	Ana and Ioan Radu (no. 24977/03) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Romania	30 Sept. 2008	Piştireanu (no. 34860/02) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Romania	30 Sept. 2008	Cloşcă (no. 6106/04) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments

Romania	30 Sept. 2008	Constantin Popescu (no. 5571/04) Link	Violation of Article 1 of Protocol No. 1	Failure to enforce final judgments
Romania	7 Oct. 2008	Dobrescu (no. 3565/04) Link	Violation of Article 1 of Protocol No. 1	Action for recovery of property
Romania	30 Sept. 2008	Filipescu (no. 34839/03) Link	Violation of Article 1 of Protocol No. 1	Action to recover possession of immovable property
Romania	7 Oct. 2008	Friedrich (no. 18108/03) Link	Violation of Article 1 of Protocol No. 1	Inability to recover possession of property
Romania	30 Sept. 2008	Gaciu (no. 4630/03) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Setting aside of a final judgment following an appeal by State Counsel
Romania	7 Oct. 2008	Grigoraş (no. 19188/03) Link	Violation of Article 1 of Protocol No. 1	Inability to recover possession of property
Romania	7 Oct. 2008	Marcel Roşca (no. 1266/03) Link	Violation of Article 1 of Protocol No. 1	Inability to use property that had been returned to the applicant and to receive rent
Russia	2 Oct. 2008	Ivchenko (no. 29411/05) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Russia	2 Oct. 2008	Smelov (no. 33660/04) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Russia	2 Oct. 2008	Tibilov (no. 38943/04) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Russia	2 Oct. 2008	Zakharov (no. 35932/04) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Russia	2 Oct. 2008	Zubarev (no. 38845/04) Link	Violation of Article 6 § 1 (fairness) and of Article 1 of Protocol No. 1	Failure to enforce final judgments
Turkey	7 Oct. 2008	Abacı (no. 33431/02) Link	Violation of Article 1 of Protocol no. 1	Deprivation of property without paying compensation
Turkey	7 Oct. 2008	Günseli Kaya (no. 40885/02) Link	Violation of Article 6 § 1 (fairness)	Lack of public hearing
Turkey	30 Sept. 2008	Karadumanlı (no. 64293/01) Link	Violation of Article 6 § 1 (fairness)	Presence of a military judge as a member of the court

4. Length of proceedings cases

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Link to the judgment</u>
Germany	9 Oct. 2008	Bähnke (no. 10732/05)	Violation of Article 6 § 1 (length) and of Article 13	Link
Hungary	7 Oct. 2008	Ecoprevent Kft (no. 5194/07)	Violation of Article 6 § 1 (length)	Link
Hungary	7 Oct. 2008	Fonyódi (no. 30799/04)	Violation of Article 6 § 1 (length)	Link
Hungary	7 Oct. 2008	Sipos (no. 7060/05)	Violation of Article 6 § 1 (length)	Link
Hungary	7 Oct. 2008	Temesvári (no. 12935/05)	Violation of Article 6 § 1 (length)	Link
Poland	7 Oct. 2008	Gnatowska (no. 23789/04)	Violation of Article 6 § 1 (length)	Link
Poland	7 Oct. 2008	Jerzak (no. 29360/06)	Violation of Article 6 § 1 (length)	Link
Poland	30 Sept. 2008	Krzysztof Kaniewski (no. 49788/06)	Violation of Article 6 § 1 (length)	Link
Romania	7 Oct. 2008	Craiu (no. 26662/02)	Violation of Article 6 § 1 (length)	Link
Romania	30 Sept. 2008	Drăgănescu (no. 29301/03)	Violation of Article 6 § 1 (length)	Link
Romania	30 Sept. 2008	Duță (no. 29558/02)	Violation of Article 6 § 1 (length)	Link
Romania	30 Sept. 2008	Nicolae Constantinescu (no. 10277/04)	Violation of Article 6 § 1 (length)	Link
Romania	30 Sept. 2008	S.C. Comprimex S.A. (no. 32228/02)	Violation of Article 6 § 1 (length)	Link
Russia	2 Oct. 2008	Kurbatov (no. 44436/06)	Violation of Article 6 § 1 (length)	Link
Russia	9 Oct. 2008	Marchenko (no. 5507/06)	Violation of Article 6 § 1 (length)	Link
Russia	9 Oct. 2008	Orlova (no. 21088/06)	Violation of Article 6 § 1 (length)	Link
Turkey	30 Sept. 2008	Şevket Sarı (no. 40200/04)	Violation of Article 6 § 1 (length)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 8 to 15 September 2008**.

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

Decisions deemed of particular interest for the work of the NHRS :

- [Preussische Treuhand GMBH & Co.KG A.A v. Poland](#), n° 47550/06, 09 October 08 : The application concerns property claims of Germans who before the Second World War had lived on the former German territories east of the Oder-Neisse line. At the end of war or shortly afterwards the applicants, or their predecessors, either abandoned their property because of the evacuation carried out by the Nazi authorities or because of the Red Army's offensive or because they were expropriated by Poland. The Court declared the application inadmissible.

- **Boivin v. France, Belgium and 32 member States of the Council of Europe (no. 73250/01), 9 September 2008** : Inadmissibility decision - Dispute falling entirely within internal legal system of an international organisation (European Organization for the safety of air navigation, Eurocontrol) endowed with its own legal personality separate from that of its members - Article 1 and 35 §1 and §4 - Application of Bosphorus case law (See [Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland](#) ([GC], n° 45036/98) - Incompetence personal scope (ratione personae).
See [INFORMATION NOTE No. 111](#), p. 7 (In French only)

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Allegation</u>	<u>Decision</u>	<u>Key Words by the Office of the Commissioner</u>
Austria	11 Sept. 2008	40065/05 OZTURK (link)	Violation of Article 6	Struck out of the list	Friendly settlement reached
Belgium	09 Sept. 2008	19444/07 GHERGHESCU (link)	Violations of article 6 § 1, 8 and 14	Inadmissible	Manifestly ill-founded
Cyprus	11 Sept. 2008	5019/06 ZOURKOVA (link)		Struck out of the list	Applicant apparently lost interest in pursuing his application
France	09 Sept 2008	25321/05 FICCO (link)	Violations of article 6	Struck out of the list	Remedies at national level
France	09 Sept 2008	45605/05 E.D. (link)	Violations of article 5§3, 5§4, 5§5, 6§1, 6§2, 6§3, 5§2, 5§1, 3§1b)c), 8§2, 9	Struck out of the list	Friendly settlement reached
France	09 Sept 2008	42975/07 V.B. (link)	Violations of articles 3, 8 et 10	Struck out of the list	Applicant obtained the refugee status
Latvia	09 Sept 2008	12037/03 OZOLIŅŠ (link)	Violations of articles 3, 5 § 3, 6 § 1, 8 § 1	Inadmissible	Final Resolution of the Application
Poland	09 Sept 2008	37021/05 PEREK (link)	Article 6 and Article 1 of Protocole No. 1	Struck out of the list	Applicant apparently lost interest in pursuing his application
Poland	09 Sept 2008	13401/03 PARDUS (link)	Violations of article 6 § 1, 6 § 2, 5 § 1, article 2 of Protocole No 4	Partly inadmissible	Manifestly ill-founded
Poland	09 Sept 2008	32343/04 BZOWY (link)	Violation of article 6 § 1	Struck out of the list	Friendly settlement reached
Poland	09 Sept 2008	7766/07 OLBIŃSKI(link)	Violation of articles 5 § 3, 6 § 1	Inadmissible	Non-exhaustion of domestic remedies and manifestly ill-founded
Poland	09 Sept 2008	20000/07 PIÓRKOWSKI (link)	Violation of article 6 § 1	Struck out of the list	Friendly settlement reached
Poland	09 Sept 2008	3015/06 JANIK (link)	Violation of articles 6 § 1, 13	Struck out of the list	Final Resolution of the Application
Poland	09 Sept 2008	3987/04 BURBULIS (link)	Violation of articles 6 § 1, 13	Struck out of the list	Final Resolution of the Application
Romania	09 Sept 2008	13067/03 CIOBANIUC (link)	Violation of article 6 and article 1 of Protocole No. 1	Struck out of the list	Applicant no longer wishing to pursue application

Romania	09 Sept 2008	21232/03 DEACONEASA and Others (link)	Violation of article 6 and article 1 of Protocol No. 1	Struck out of the list	Friendly settlement reached
Romania	09 Sept 2008	9104/03 DAVID (link)	Violation of article 6 and article 1 of Protocol No. 1	Struck out of the list	Applicant no longer wishing to pursue application
Romania	09 Sept 2008	21858/04 S.C. RHEUMATIC TOURS S.R.L. (link)	Violation of article 6 and article 1 of Protocol No. 1	Struck out of the list	Friendly settlement reached
Romania	09 Sept 2008	12087/05 TUNDREA (link)	Violation of article 1 of Protocol No. 1	Struck out of the list	Friendly settlement reached
Romania	09 Sept 2008	6626/03 PASĂRE (link)	Violation of article 6 and article 1 of Protocol No. 1	Struck out of the list	Applicant no longer wishing to pursue application
Romania	09 Sept 2008	26036/03 MATEI (link)	Violation of article 6, 14, and article 1 of Protocol No. 1	Struck out of the list	No status of victim
Russia	11 Sept 2008	21486/06 SATABAYEVA (link)	Violation of article 2, 5, 13	Admissible	
Russia	11 Sept 2008	1758/04 VAKHAYEVA AND OTHERS (link)	Violation of articles 2 ; 3 ; 5 ; 8 ; 13	Admissible	
Russia	11 Sept 2008	27191/02 AGRICULTURAL PRODUCTION COOPERATIVE *DIMSKIY* (link)	Violations of article 6 ; and article 1 of Protocol No. 1	Admissible	
Russia	11 Sept 2008	24461/02 TRONIN (link)	Violations of article 6 ; and article 1 of Protocol No. 1	Partly admissible ; partly inadmissible	
Russia	09 Sept 2008	26792/04 KRASAVIN (link)	Violations of articles 6, 13 ; and article 1 of Protocol No. 1	Inadmissible	Manifestly ill-founded
Russia	09 Sept 2008	76110/01 ZEMLYANSKIKH (link)	Violations of articles 3, 6, 13 ; and article 1 of Protocol No. 1	Inadmissible	Failure to observe the six months' time-limit and manifestly ill-founded
Russia	09 Sept 2008	78005/01 SIDOROV AND SIDOROVA (link)	Violations of article 3	Inadmissible	Manifestly ill-founded
Russia	11 Sept 2008	9030/07 RYZHAKOVA ET AUTRES (link)	Violations of article 6, 37§1 ; and article 1 of Protocol No. 1	Struck out of the list	Applicant no longer wishing to pursue application

Netherlands	09 Sept 2008	34441/05 REMMERSWAAL (link)	Violation of article 8§1	Inadmissible	Manifestly ill-founded
United Kingdom	09 Sept 2008	351/04 CLARK (link)	Violation of articles 14 and 8, or articles 14 and article 1 of Protocole No. 1	Inadmissible	Manifestly ill-founded
United Kingdom	09 Sept 2008	4839/03 McCANN (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1, article 37§1	Partly inadmissible ; partly struck out of the list	
United Kingdom	09 Sept 2008	60940/00 ROBINSON (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1, article 37§1	Struck out of the list	Applicant no longer wishing to pursue application
United Kingdom	09 Sept 2008	60944/00 ADDIS	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1, article 37§1	Struck out of the list	Applicant no longer wishing to pursue application
United Kingdom	09 Sept 2008	43390/02 BRADLEY (link)	Violation of articles 14 and article 1 of Protocole No. 1, article 37§1	Struck out of the list	Friendly settlement reached
United Kingdom	09 Sept 2008	2368/03 SMITH (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1	Inadmissible	Manifestly ill-founded
United Kingdom	09 Sept 2008	3003/03 BRAGGER (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1	Inadmissible	Manifestly ill-founded
United Kingdom	09 Sept 2008	3235/03 CRAIK (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1	Inadmissible	Manifestly ill-founded
United Kingdom	09 Sept 2008	39596/05 HOOPER (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1	Inadmissible	Manifestly ill-founded

* You may find similar inadmissibility decisions concerning the alleged violation of article 14 taken in conjunction with both article 8 and 1 of Protocol No. 1 (discrimination on ground of sex in the British social security legislation) on the website of the European Court of Human Rights: <http://www.echr.coe.int/echr/>. You may consult in particular the following decisions: *Willis v. the United Kingdom*, no. 36042/97, §§ 14-26, ECHR 2002-IV and *Runkee and White v. the United Kingdom*, no. 42949/98, §§ 40-41, 25 July 2007.

United Kingdom	09 Sept 2008	7112/06 ROBSON (link)	Violation of articles 14 and 8, articles 14 and article 1 of Protocole No. 1, article 37§1	Struck out of the list	Friendly settlement reached
Turkey	09 Sept 2008	520/02 CEKMECI AND OTHERS (link)	Violation of articles 6-1 ; 37-1	Struck out of the list	Friendly settlement reached
Turkey	09 Sept 2008	32661/02 ASLAN (link)	Violations of articles 5 ; 6-1 ; 6-2 ; 6-3 ; 37-1	Struck out of the list	Friendly settlement reached
Turkey	09 Sept 2008	33245/05 AKMAN (link)	Violation of articles 3 ; 6-1 ; 13 ; 14	Partly inadmissible	
Turkey	09 Sept 2008	4228/04 DENIZ (link)	Violations of article 1 of Protocole No. 1, article 37§1	Struck out of the list	Applicant no longer wishing to pursue application
Turkey	09 Sept 2008	2925/04 SEKERLISOY (link)	Violation of article 37§1	Struck out of the list	Friendly settlement reached
Turkey	09 Sept 2008	18161/04 UYSAL ET AUTRES (link)	Violation of articles 6-1 ; article 1 of Protocole No. 1	Inadmissible	Manifestly ill-founded

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 case which were published on the Court's Website :

- on 29 September 2008 : [link](#)
- on 6 October 2008 : [link](#)
- on 13 October 2008 : [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.

D. Miscellaneous

Hearings:

The Chamber Hearing in the case **Opuz v. Turkey** (no. 33401/02) is now available :

[Original language version](#), [English](#), [French](#)
[Press releases](#), [Facts and Complaints](#)

You may also find the webcast of the Grand Chamber hearing in the case **Micallef v. Malta** (no. 17056/06). [Original language version](#), [English](#), [French](#). [Press releases](#)

Election of the judge in respect of Luxembourg

The Parliamentary Assembly of the Council of Europe has re-elected **Dean Spielmann**, the judge currently sitting on the European Court of Human Rights in respect of Luxembourg. Dean Spielmann (Luxemburger), who was born in 1962 in Luxembourg, was a member of the Luxembourg Bar and then a Barrister from 1989 to 2004. He was a member of the Bar Council from 1996 to 1998 and secretary of the Bar Disciplinary and Administrative Committee from 1999 to 2001. Since June 2004

he has been a judge of the European Court of Human Rights. Mr Spielmann's term of office will end on 31 October 2013.

Seminars:

Ten years of the "new" Court (14.10.08)

A Seminar took place on Monday 13 October 2008 at the Court on the occasion of the 10th anniversary of the entry into force of Protocol No. 11 to the European Convention on Human Rights (1 November 1998). Webcast : [Part 1](#), [Part 2](#), [Press Release](#), [speech of President Costa](#) (in French only), [speech of Maud de Boer-Buquicchio](#) ; President Costa opened also in the morning the meeting of NGOs. [Speech](#).

London, 7 October 2008, Lecture at the King's College by the President of the Court

The Relationship between the European Convention on Human Rights and European Union Law – A Jurisprudential Dialogue between the European Court of Human Rights and the European Court of Justice.

Part II : The execution of the judgments of the Court

A. New information

The Committee of Ministers will hold its 1043rd Human Rights meeting on the supervision of the Court's judgments on 2-4 December 2008.

Belgrade Seminar on the execution of the judgments of the European Court of Human Rights in cases related to child and parental rights

The Ministry for Human and Minority Rights of the Republic of Serbia, in cooperation with the Department for the Execution of Judgments of the European Court of Human Rights of the Council of Europe, has organised on 25 and 26 September 2008 a seminar in Belgrade on the execution of the judgments of the European Court of Human Rights in cases related to child and parental rights.

The seminar aimed at sharing experience in the resolution of structural problems revealed in the area of enforcement of domestic court decisions concerning child and parental rights in the light of the case-law of the European Court of Human Rights. The discussions were mainly based on the measures taken and/or envisaged by the Serbian authorities in the execution of a number of judgments where the European Court of Human Rights found violations of the right to respect for family life, notably the cases of V.A.M., Jevremović and Tomić.

The importance of rapid and full execution of the judgments of the European Court of Human Rights was highlighted in the opening remarks of Mr Svetozar Čiplić, the Serbian Minister of Human and Minority Rights; Mrs. Snežana Malović, the Minister of Justice and Mrs. Vida Petrović-Škero, the President of the Supreme Court of Serbia.

Around 60 representatives of the Serbian judiciary, social care and other relevant authorities concerned with the protection of the right to respect for family life took part in the debates.

B. General and consolidated information

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2007 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/E/Human_Rights/execution/

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)

Decision on the merits for Collective Complaint MDAC v. Bulgaria is made public

The European Committee of Social Rights concluded that there is a violation of Article 17§2 (the right of children and young persons to social, legal and economic protection) taken alone and in conjunction with Article E of the Revised Charter with regard to the complaint Mental Disability Advocacy Centre (MDAC) v. Bulgaria, No. 41/2007.

[Decision on the merits](#)

[Collective complaints webpage](#)

Meeting on non-accepted provisions of the Revised European Social Charter was held in Yerevan, Armenia, from 29 September to 1 October 2008 ([Programme](#)).

You may visit the following webpage containing summary presentations of the implementation of the Social Charter in its States parties:

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 the [United Kingdom](#) (01.10.08)

The CPT has published the [report](#) on its ad hoc visit to the United Kingdom in December 2007, together with the [response](#) of the United Kingdom Government. These documents have been made public at the request of the United Kingdom authorities.

During the December 2007 visit, the CPT's delegation re-examined the safeguards afforded to persons detained by the police under the Terrorism Act 2000 as well as the conditions of detention of such persons at Paddington Green High Security Police Station.

The CPT's visit report and the response of the United Kingdom Government are available on the Committee's website at <http://www.cpt.coe.int>

Council of Europe anti-torture Committee visits [Italy](#) (02.10.08)

A delegation of the CPT carried out a periodic visit to Italy from 14 to 26 September 2008. It was the CPT's seventh visit to this country.

During the visit, particular attention was paid to the treatment of persons deprived of their liberty by law enforcement officials and to the conditions of detention under which foreign nationals are held in identification and expulsion centres. The delegation also examined in detail various issues related to prisons, including the situation of prisoners who are subject to a maximum security regime (the "41-bis" regime), overcrowding and prison health care. It also visited a judicial psychiatric hospital (OPG) and a civil psychiatric facility where patients may be subjected to "involuntary medical treatment" (TSO).

Council of Europe anti-torture Committee visits [Greece](#) (07.10.08)

A delegation of the CPT carried out an ad hoc visit to Greece from 23 to 29 September 2008. The main objective of the visit was to examine the treatment of persons detained by law enforcement

agencies. Particular attention was paid to the situation of irregular migrants detained under Aliens legislation who are held in either police/border guard stations or in special holding facilities under the responsibility of the Ministry of Interior.

Council of Europe anti-torture Committee visits the [Russian Federation](#) (09.10.08)

A delegation of CPT carried out a periodic visit to the Russian Federation from 22 September to 6 October 2008. It was the CPT's fifth periodic visit to this country.

The visit focussed on the City of Moscow, the Republic of Udmurtia and the Regions of Arkhangelsk and Vologda. The CPT's delegation paid particular attention to the treatment of persons detained by Internal Affairs agencies, including foreign nationals and administrative detainees. It also examined in detail various issues related to prisons, including the regimes applied to remand prisoners, juveniles and life-sentenced prisoners. Further, the delegation visited a psychiatric hospital, where it considered the treatment and legal safeguards applicable to involuntary patients and patients undergoing psychiatric assessment and coercive treatment.

Council of Europe anti-torture Committee publishes report on [Croatia](#) (09.10.08)

The CPT has published the [report](#) on its 3rd periodic visit to Croatia, in 2007, together with the authorities' [response](#). These documents have been made public at the request of the Croatian Government.

The report reviews the situation of persons detained by the police, including immigration detainees. The information gathered during the visit indicated that ill-treatment by the police remained a problem in Croatia. The CPT made a series of recommendations to address this problem, including that a clear message of "zero tolerance" of ill-treatment be delivered, from the highest level and through ongoing training activities, to all police officers. The CPT also noted with concern that little progress had been made as regards notification of custody, access to a lawyer, and access to a doctor; it called upon the Croatian authorities to take effective steps to ensure compliance with these fundamental safeguards against the ill-treatment of people detained by the police.

The CPT welcomed the efforts made to improve material conditions in police establishments in Zagreb, in sharp contrast with the situation observed in police cells outside the capital. It recommended the Croatian authorities to redouble their efforts to improve conditions of detention in police cells throughout the country.

As regards prisons, the delegation received no allegations of ill-treatment of inmates by staff at Požega Re-education Institution. However, some allegations of physical ill-treatment and verbal abuse were received at Lepoglava, Osijek and Rijeka Prisons. Further, the delegation had misgivings about the manner in which investigations of prisoners' complaints were carried out, after gathering allegations of psychological pressure by prison officers against prisoners who had complained. The CPT recommended the authorities to deliver to prison staff the firm message that both physical ill-treatment and verbal abuse of prisoners, as well as any kind of threats or intimidating action against a prisoner who has made a complaint, will not be tolerated and will be subject to severe sanctions.

Prison overcrowding had worsened since the 2003 visit, with an increase of the prison population by some 40%. The CPT recommended the Croatian authorities to redouble their efforts to combat prison overcrowding, in particular by adopting policies designed to limit or modulate the number of people sent to prison. The CPT's delegation noted the efforts to offer activities to sentenced prisoners in the establishments visited, including prisoners serving very long sentences. By contrast, the regime of remand prisoners at Osijek and Rijeka Prisons remained very poor, most inmates on remand being confined to their cells for some 22 hours a day.

No allegations of ill-treatment were received at Vrapče Psychiatric Hospital and the Pula Social Care Home for Adults with Psychiatric Disorders. At both establishments, the CPT was impressed by the caring attitude displayed by staff towards patients and residents. However, at Vrapče Psychiatric Hospital, little or no action had been taken to implement the recommendations made after the Committee's 2003 visit; there is in particular an urgent need to proceed with the construction of the new forensic psychiatric unit.

As regards treatment at Pula Social Care Home, the situation was globally satisfactory. That said, the CPT recommended that programmes of rehabilitative activities as well as resocialisation programmes be developed, which will require more qualified staff.

In their response, the Croatian authorities provide information on the measures being taken to address the issues raised in the CPT's report.

The CPT's visit [report](#) and the [response](#) of the Croatian authorities are available on the Committee's website <http://www.cpt.coe.int>

C. European Commission against Racism and Intolerance (ECRI)

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

[International conference to assess the protection of national minorities by the European Convention](#) (06.10.08)

E. Group of States against Corruption (GRECO)

Outcome of the 39th Plenary Meeting of the Group of States against Corruption – GRECO (6-10 October 2008)

At its 39th Plenary Meeting, the Group of States against Corruption - GRECO adopted: the Third Round Evaluation Report on Latvia, the Joint First and Second Round Evaluation Report on Monaco, the Joint First and Second Round Compliance Report on Azerbaijan, the Second Round Compliance Report on Portugal and the Addendum to the Second Round Compliance Report on Poland.

Explanations were provided by the Italian delegation concerning the abolition of the Office of the Italian High Commissioner against Corruption.

GRECO also announced the Third Round evaluation visits that will be carried out during 2009, namely in respect of Lithuania, “the former Yugoslav Republic of Macedonia”, Bulgaria, Germany, Malta, Romania, Cyprus, Ireland, Croatia, Greece, Turkey and Hungary.

See also **Addendum to Compliance Reports on [Luxembourg](#) (7 October 2008)**.

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

Mutual evaluation report on Russian Federation public (01.10.08)

The mutual evaluation report on Russian Federation, as adopted at MONEYVAL's 27th plenary meeting (7-11 July 2008) is now available for consultation.

Link to [report](#)

This report analyses the implementation of international and European standards to combat money laundering and terrorist financing, assesses levels of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations and includes a recommended action plan to improve the Russian anti money laundering and combating the financing of terrorism (AML/CFT) system.

The Mutual Evaluation Report on the Russian Federation is a joint evaluation undertaken by the FATF, MONEYVAL and the Eurasian Group (EAG).

The main findings of the report are:

- The threshold for the criminalisation of money laundering has been abolished. Russia follows an “all crimes approach” and all designated categories of offences are covered apart from insider trading and market manipulation. The previous MONEYVAL examiners recommended that consideration be given to negligent money laundering. This still has not been criminalised and neither has Russia established criminal liability for legal persons.
- Russia now possesses a dual procedure for dealing with confiscation. The Criminal Code and the Criminal Procedure Code both contain provisions that authorise the confiscation of proceeds of crime.

* No work deemed relevant for the NHRS for the period under observation.

- Since September 2007 the Russian Financial Intelligence Unit (*Rosfinmonitoring*) is placed directly under the authority of the Prime Minister, though it still enjoys full operational autonomy. Rosfinmonitoring supervises all designated non financial businesses and professions which do not have a supervisory authority. Law enforcement authorities now have full access to banking information at an early stage of the investigation though a court order is required. The regional bodies of Rosfinmonitoring now have full access to the headquarters databases. Suspicious Transaction Reports (STRs) have increased significantly during the last year and so have the number of convictions. The majority of STRs are from the credit institutions and the financial sector.
- Effective implementation of Recommendation 33 and Special Recommendations III, VI, VIII and IX needs addressing.
- The systems for record keeping and suspicious transaction reporting are generally sound and in line with the FATF Standards. Improvements in the customer due diligence area are required.
- Russia should review and update all its supervisory laws and practices. None of the supervisory authorities in Russia currently possesses an adequate level of sanctioning powers, and criminal ownership of financial institutions is not specifically prohibited. The Bank of Russia is nonetheless to be commended for performing its tasks at an acceptable level despite the lack of legal tools. Progress by the Russian Federation in addressing these issues should be monitored.
- International co-operation by the Russian Federation is generally sound, based on practical mechanisms and supported by numerous treaties.

The report was adopted at MONEYVAL's 27th Plenary meeting (Strasbourg, 7 – 11 July 2008). MONEYVAL will follow-up implementation of the recommendations through its progress report procedure, under which all MONEYVAL countries are required to update the Committee on action taken on the mutual evaluation report one year after its adoption.

On-site evaluation visit to Ukraine (07.10.08)

A MONEYVAL team of examiners visited Ukraine from 22 September to 1 October 2008. The team met with authorities and private sector representatives in Kyiv, Lviv (Lviv oblast), Simferopol (Autonomous Republic of Crimea) and Donetsk (Donetsk oblast). It met with the following institutions and organisations: the Council of Ministers of AR Crimea, the State Administration of Lvivska oblast and Donetska oblast, the State Committee for Financial Monitoring (and its three regional subdivisions), the State Commission on Securities and Stock Market, the State Commission on Financial Services Market Regulation, the National Bank, the State Tax Administration, the Ministry of Interior, the Security Service, the Supreme Court, the Kyiv Court of Appeal, the General Prosecutor's Office and Prosecutor's Offices in the regions, the Ministry of Justice, the Ministry of Finance, State Customs, the Administration of State Border Service, the State Committee on Regulatory Policy and Entrepreneurship. It also met with private sector representatives from the League of Insurance organisations, the Association of Ukrainian banks, the Professional association of Registrar and Depositaries, the National Depository of Ukraine, the Ukrainian Association of Gambling Business Actors, as well as representatives of banks, insurance companies, pawnshops, credit unions, securities traders, asset management companies, casinos and Western Union. The draft report will now be prepared for review and adoption by MONEYVAL at its 29th Plenary meeting (16-20 March 2009). This evaluation is based on the Forty Recommendations and the 9 Special Recommendations of the FATF, together with Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 and the relevant implementing measures.

Typologies report on the use of securities in money laundering schemes

This report seeks to analyse the underlying vulnerabilities in the securities markets and highlight a number of methodologies which have been employed in laundering money through securities transactions. It also provides guidance on techniques to prevent and detect money laundering.

[Link to report](#)

Part IV : The intergovernmental work

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

Bosnia and Herzegovina signed on 7th October 2008 the European Agreement on the Transmission of Applications for Legal Aid ([ETS No. 92](#)), and ratified the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities ([ETS No. 159](#)), the European Social Charter (revised) ([ETS No. 163](#)), and Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation ([ETS No. 169](#)).

Croatia ratified on 10th October 2008 the Additional Protocol to the Convention on the Transfer of Sentenced Persons ([ETS No. 167](#)), and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism ([CETS No. 198](#)).

Ireland signed on 3rd October 2008 the Council of Europe Convention on the Prevention of Terrorism ([CETS No. 196](#)).

Monaco signed on 1st October 2008 the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data ([ETS No. 108](#)), and 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](#)).

B. Recommendations and Resolutions adopted by the Committee of Ministers

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C. Other news of the Committee of Ministers

International court representatives' conference to examine current legal challenges (30.09.08)

Under the Swedish chairmanship of the Council of Europe's Committee of Ministers, the Council of Europe organised a wide-ranging conference at **Lancaster House in London on 6 and 7 October**, gathering some 120 participants, including Presidents, Prosecutors and Registrars from 15 international courts and tribunals, legal experts, academicians and practitioners.

International justice answers to the common desire to resolve peacefully conflicts between states, to try the most atrocious crimes, and to contribute to human rights protection. Ensuring the functioning of international courts and tribunals in view of the full achievement of their respective missions is the best support that states and international organisations can provide to international justice.

The conference will create a roundtable for open and constructive discussion between those who represent international justice on a daily basis and representatives of the governments which have initiated and established these bodies.

It is organised in conjunction with the 36th meeting of the Committee of Legal Advisers on Public International Law (CAHDI): the only pan-European forum where legal advisers of the Ministers for foreign affairs of Council of Europe member states and a significant number of observer states and organisations can exchange and co-ordinate views on public international law issues. In a political climate which encourages interdependence between states, international law is constantly developing

* No work deemed relevant for the NHRS for the period under observation.

and becoming a key factor in inter-state relations. You may consult as well the [Speech](#) of the President of the European Court of Human Rights (In French only).

Chairman of Ministers' Deputies meets Human Rights Commissioner and Presidents of monitoring bodies (07.10.08)

The Chairman of the Committee of Ministers' Deputies, Ambassador Per Sjögren from Sweden, accompanied by the Vice-Chair Ambassador Marta Vilardell Coma from Spain, convened the Commissioner and the Presidents of the various monitoring bodies¹ of the Council of Europe to an informal meeting.

The purpose of the meeting was to discuss ways of enhancing their respective activities, in good synergy and in full respect of the independence of the Commissioner and of the monitoring bodies.

They also discussed how assistance activities could better be targeted to redress the shortcomings found by the monitoring mechanisms, as well as the role of national authorities in taking responsibility for the necessary reforms.

Second European Day against the Death Penalty (10.10.08)

"The European Day against the Death Penalty is an opportunity to support the movement for a worldwide moratorium on executions," Terry Davis, Council of Europe Secretary General, declared on 10 October. He also welcomed the European Union's decision to join the initiative. "To die by order of the state, decreed by a judge or a politician as punishment for a crime, is thankfully a thing of the past in Europe," said Parliamentary Assembly President Lluís Maria de Puig. The event was marked at the Council of Europe by a panel discussion, featuring French former Minister of Justice and anti-death penalty pioneer Senator Robert Badinter, Secretary General Terry Davis and Swedish Human Rights Ambassador Jan Nordlander and Council of Europe Goodwill Ambassador Bianca Jagger. Sponsored by both the Swedish Chairmanship of the Committee of Ministers and the French Presidency of the European Union, the panel listened to an audio message from U.S. death row inmate Troy Davis as delivered to Amnesty International.

D. Miscellaneous

Council of Europe: the 2nd report on the evaluation of European judicial systems is made public (08.10.08). [Link to the report](#)

The Council of Europe's Commission for the Efficiency of Justice (CEPEJ) has just brought out the 2nd report on the evaluation of European judicial systems during a press conference in Paris.

The report, comprising data for 45 European states (*), provides the Council of Europe with a real snapshot of justice in Europe. The CEPEJ has tried to identify some main European trends and conclusions concerning the application of fundamental principles and European standards in the field of justice.

The report provides comparative tables and analysis of key indicators including : public spending on the judicial system, the legal aid system, the organisation of jurisdictions, judicial personnel, length of proceedings, lawyers and notaries.

Report of the 3rd meeting of the Reflection Group (DH-S-GDR) (Strasbourg, 8-10 October 2008)

The Reflection Group, in particular:

- decided (i) to continue consideration of a possible non-binding Committee of Ministers' instrument on domestic remedies; (ii) to obtain further information concerning extension of the Court's jurisdiction to give advisory opinions; and (iii) to continue work on ways of increasing use of third-party interventions;
- recommended that further work on a possible Statute for the Court be continued in another forum and recorded its position on the issue;
- supported further reflection on a new filtering mechanism, such as the judicial committee suggested by the Group of Wise Persons;

- decided to return to the issue of the pilot judgment procedure at its next meeting;
- instructed the Secretariat to prepare possible text for an eventual Committee of Ministers' resolution on article 37(1)(c) of the Convention"

The Group agreed to investigate the possibility of holding a half-day hearing with representatives of civil society on the first day of the Group's fifth and final meeting (provisionally foreseen for 4-6 March 2009). Relevant non-governmental organisations would be invited to submit their observations in writing to the Secretariat in advance of the fourth meeting (provisionally foreseen for 28-30 January 2009: see para. 34 of the report). This is of interest to the European Group of NHRIs with observer status before the Group. You may find the abovementioned report appended to the email accompanying issue n°3 of the Regular Selective Information Flow.

Part V : The parliamentary work

The Parliamentary Assembly held its Autumn session between 29 September and 3 October 2008. The main outcomes of this session are described below.

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

1. COUNTRIES

- **[Recommendation 1843](#) (2008), 30.09.08 : Honouring of obligations and commitments by Bosnia and Herzegovina.** See also [Doc. 11700](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs : Mr Çavuşoğlu and Mr Sasi).

- **[Resolution 1626](#) (2008), 30.09.08: Honouring of obligations and commitments by Bosnia and Herzegovina**

Haris Silajdzic: comprehensive reform of the Dayton Constitution is vital for peace and stability (30.09.08)

In his address to the Parliamentary Assembly on 30 September, Haris Silajdzic, Chairman of the Presidency of Bosnia and Herzegovina, said: “ Without a comprehensive reform of the Dayton Constitution, little progress will be made, threatening peace and stability in my country and the entire region.” Expressing hope for the continued help of the Venice Commission and other Council of Europe institutions, he emphasised that “helping to build a modern constitutional state that is true to its multiethnic character will make both Bosnia and Europe a better place.” [Speech](#) ; [Video of the speech](#)

Constitutional reform needs to be stepped up in Bosnia and Herzegovina (30.09.08)

In a resolution adopted today, PACE called upon the authorities of Bosnia and Herzegovina to step up their efforts with regard to constitutional reforms, which should be implemented on the basis of a shared vision of the development of the country's institutions, while respecting the autonomy of the two Entities and the Brcko district. “Without proper reforms, and in the absence of co-operation between the various structures and institutions at the level of the state and the Entities, Bosnia and Herzegovina will not be able to make full use of the benefits of European integration,” said the co-rapporteurs from the Monitoring Committee, Mevlüt Çavusoglu (Turkey, EDG) and Kimmo Sasi (Finland, EPP/CD).

In addition, the Assembly drew attention to the increase in nationalist and ethnic rhetoric, in the context of the campaign for the October 2008 local election. It also condemned the discrimination and violence against LGBTs and the recent attacks against organizers and participants of the Sarajevo Queer Festival and journalists.

- **[Recommendation 1845](#) (2008), 01.10.08 : The situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia.** See also [Doc.11528](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Herrmann.

- **[Resolution 1632](#) (2008), 01.10.08 : The situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia**

PACE welcomes Serbia's initiatives on minority rights but lists further steps (01.10.08)

PACE today welcomed a number of praiseworthy initiatives to advance the rights of national minorities in Serbia, but said there were still “serious deficiencies” in realising these rights. Serbia should “react with greater celerity and firmness against the perpetrators of interethnic violence in all its forms”, the parliamentarians said. Among other things, they called for steps to make the national councils for national minorities more effective, and the adoption of a new law on discrimination.

- **[Resolution 1628](#) (2008), 01.10.08 : Situation in Cyprus.** See also [Doc.11699](#), report of the Political Affairs Committee, rapporteur : Mr Hörster, and [Doc. 11727](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Cilevičs

Cyprus: "We do not have the luxury to fail" warns President Dimitris Christofias (30.09.08)

"We envisioned a Cyprus where any conflict between the communities will, in the context of a united economy, be replaced by healthy competitiveness and an alignment of interests between the various classes of the population, irrespective of which community they come from," the President declared on 30 September in his speech to the Parliamentary Assembly. President Christofias stressed the "common vision" he shares with Mehmet Ali Talat – the leader of the Turkish Cypriot community who will also address the Assembly on 1 October ahead of a debate on the situation in Cyprus. He added: "I believe that we can and must succeed." [Speech](#). [Video of the speech](#)

Mehmet Ali Talat: Assembly offered Turkish Cypriots a window to breathe through (01.10.08). See [Speech](#), [Video of the speech](#), [Press release](#)

Reunification of Cyprus: President Christofias and Mr Talat cannot afford to fail (01.10.08). See [Press Release](#)

- [Resolution 1634 \(2008\)](#), 02.10.08 : **Proposed 42-day pre-charge detention in the United Kingdom.** See also [Doc.11725](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr De Vries

Proposed 42-day pre-charge detention in the United Kingdom: PACE expresses "serious doubts" (02.10.08). See [Press Release](#).

2. THEMES

- [Resolution 1629 \(2008\)](#), 01.10.08 : **OECD and the world economy.** See also see [Doc. 11687](#), report of the Committee on Economic Affairs and Development, rapporteur: Mrs Lilliehöök; [Doc. 11719](#), contribution by the Social, Health and Family Affairs Committee, rapporteur: Mrs Roseira ; [Doc. 11697](#), contribution by the Committee on Culture, Science and Education, rapporteur: Mr Daems ; [Doc. 11712](#), contribution by the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mr Vis.

Angel Gurría, OECD Secretary General: Financial situation 'indeed critical' (01.10.08)

OECD Secretary General Angel Gurría at the Assembly on 1st October, expressed the OECD's support for the adoption of the U.S. systemic rescue plan: "I am confident that in the coming days the U.S. legislators will reach an agreement." Europe may need such a plan as well, he said, "considering the exposure of European financial institutions."

[Speech](#)

PACE rapporteur on the OECD calls for new rules for financial markets (01.10.08). See [Press release](#)

- [Opinion No. 270 \(2008\)](#), 03.10.08 : **Draft Council of Europe Convention on Access to Official Documents.** See also [Doc. 11698](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr De Vries

The draft Convention on access to official documents should be sent back to the committee (03.10.08)

PACE welcomed the draft Council of Europe Convention on access to official documents as the first binding international treaty to lay down a general right of access to official documents.

Nevertheless, the Assembly considered that the draft had shortcomings and therefore recommended that the Committee of Ministers send it back to the Steering Committee on Human Rights for further consideration. In particular, with regard to broadening the definition of "public authorities" to include a wider range of activities of public authorities and hence widening the scope of the information made available, including a time limit on the handling of requests and finally, adding a paragraph to prevent the introduction of reservations to this convention by member states when signing it.

- [Recommendation 1848 \(2008\)](#), 03.10.08 : **Indicators for media in a democracy.** See also [Doc. 11683](#), report of the Committee on Culture, Science and Education, rapporteur : Mr Wodarg.

- [Resolution 1636 \(2008\)](#), 03.10.08 : **Indicators for media in a democracy**

States should measure their level of media freedom against Council of Europe 'indicators' (03.10.08). See [Press Release](#)

- [Recommendation 1847 \(2008\)](#), 03.10.08 : **Combating violence against women: towards a Council of Europe convention.** See also [Doc. 11702](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Mendes Bota.

- **[Resolution 1635](#) (2008), 03.10.08 : Combating violence against women: towards a Council of Europe convention**

[PACE calls for a convention to combat violence against women \(03.10.08\)](#). See [Press Release](#)

3. OTHERS

- **[Resolution 1627](#) (2008), 30.09.08: Candidates for the European Court of Human Rights.** See also [Doc. 11682](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Bemelmans-Videc, and [Doc. 11718](#), opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Err.

[Gender balance at the Court: PACE may choose from a single-sex list of candidates \(30.09.08\)](#)
See [Press Release](#)

Pursuant to Articles 47, 48 and 49 of the European Convention on Human Rights, the European Court of Human Rights rendered an [advisory opinion](#) on 12 February 2008 on certain legal questions concerning the lists of candidates submitted with a view to the election of judges to the European Court of Human Rights.

B. News of the Parliamentary Assembly of the Council of Europe

PACE elects two new Vice-Presidents (29.09.08)

The Assembly today elected, at the opening of its Autumn 2008 Session, two new Vice-Presidents: Juan Fernando López Aguilar, for Spain, and Luigi Vitali, for Italy.

Jorge Pizarro calls on Assembly members to protect the human rights of immigrants (29.09.08)

Speaking at the Assembly session, Jorge Pizarro, President of the Latin American Parliament, pointed out on 29 September, that inequity, exclusion and poverty in the world cannot be justified by the scarceness of resources or population growth. He expressed his concern that poverty is growing, and said Latin American countries, in addition to developed countries, have an important role to combat it. [Speech](#), [Video of the speech](#)

Jorge Sampaio: dialogue is the only sure way to overcome prejudice and conflicts (29.09.08)

In his address to the Assembly on 29 September, Jorge Sampaio, UN High Representative for the Alliance of Civilizations stressed that fostering dialogue is the only sure way to counter extremism and build cross-cultural and inter-religious understanding. Conceding that there was no quick fix to eliminate the world's imbalances, tensions and sources of conflict, he called for greater unity to make "the world a better place to live in." [Speech](#), [Video of the speech](#), [Photo gallery](#)

Belarus: elections are a step back (01.10.08)

'The conduct of the recent elections in Belarus have been yet another reason for concern' commented today the PACE Rapporteur on the Situation in Belarus Mr Rigoni.

Although PACE did not send an election observation mission, Mr Rigoni was able to form his own first-hand opinion over the conduct of the elections, having observed them in his national capacity as Italian parliamentarian. 'Unfortunately, another opportunity for democracy has been missed in Belarus. It is quite unbelievable that, out of 110 constituencies, not one single opposition candidate was able to get elected'.

Although taking note of some improvements, such as the participation of opposition representatives in electoral commissions, the registration of a higher number of opposition representatives as candidates, and a reduction of the proportion of voters using the system of early voting from from 31,5% in 2006 to 26,2%, Mr Rigoni regretted that these elections fell short of European standards. However, he also added that 'despite this disappointing outcome, I continue to be in favour of dialogue with all the actors concerned'

PACE launches the Gender Equality Prize to encourage parity in politics (02.10.08). See [Press Release](#)

Guantanamo: European Governments urged to provide humanitarian protection for detainees at risk of torture (02.10.08). See [Press Release](#)

Armenia: PACE Monitoring Committee remains concerned about the limited progress with regard to the implementation of Resolutions 1609 and 1620 (02.10.08). See [Press release](#)

Visit to Monaco by PACE co-rapporteurs (03.10.08). See [Press Release](#)

'The dissolution of political parties should be regarded as an exceptional measure', says PACE President (03.10.08). See [Press Release](#)

PACE delegation to observe presidential election in Azerbaijan (10.10.08)

A 26-member delegation from the Parliamentary Assembly of the Council of Europe (PACE), led by Andres Herkel (Estonia, EPP/CD), visited Azerbaijan from 12 to 17 October 2008 to observe the presidential election, alongside observers from the European Parliament and the OSCE's Office for Democratic Institutions and Human Rights (ODIHR).

The delegation members met several election candidates, representatives of the political parties and coalitions, the Chair of the Central Electoral Commission, political experts and representatives of civil society and the media, before travelling to various parts of the country to observe voting on 15 October.

The delegation also included an expert from the Venice Commission of the Council of Europe.

Last September, a PACE delegation carried out a pre-election visit to Baku, following which it expressed its concern about "a presumed lack of public interest" and its regret at the decision taken by five opposition parties not to participate in the vote.

C. Miscellaneous

You may find some relevant information on the activities of the Parliamentary Assembly of the Council of Europe in the electronical newsletter "PaceNews".

The [Issue 43](#) of the PaceNews dated 29 September 2008 covers *inter alia* the Autumn session of the Parliamentary Assembly.

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

A. Country work

Armenia: Commissioner Hammarberg releases his findings on the investigation of March events (29.09.08)

“There is an urgent need to reach a satisfactory solution for prisoners and to hold accountable those responsible for the March events.” With this main message, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, published his summary of findings on a visit to Armenia carried out last 13-15 July to weigh the progress made in investigating the violent events which ensued following the demonstrations after the Presidential election.

“The situation of persons deprived of their liberty continues to be a source of serious concern” said the Commissioner. “Questions persist as to the very nature of the criminal charges and the intent of the investigations carried out.” Commissioner Hammarberg also regretted that prosecution cases against 19 persons were based solely on police testimony.

The Commissioner was particularly concerned about the seven persons remaining in preliminary detention, including prominent opposition representatives. “It is unacceptable to continue to hold in detention or to convict – even to non-custodial sentences – anyone solely because of their political beliefs or non-violent activities.”

Furthermore, the Commissioner focused on the setting up of a national commission of inquiry. While welcoming the proactive approach of the Government in this regard, he recommended that continued efforts be made, in tandem with international expert advice, and through a broad and fully inclusive consultation process. “The establishment of a group of experts tasked with carrying out a comprehensive, independent, impartial, transparent inquiry, which would be perceived as credible by the whole population of Armenia, appears to be within reach. I hope that this opportunity will be recognised and will continue to meet with a constructive response by all the relevant actors.”

The summary is available on the Commissioner’s [website](#).

Montenegro: “Human rights standards improved. Implementation must follow” says Commissioner Hammarberg (08.10.08)

“Montenegro has taken many positive steps in recent years to upgrade its legislation, but implementation remains weak and standards do not yet find their way into the courtrooms in a consistent way”, concluded the Council of Europe’s Commissioner for Human Rights, Thomas Hammarberg, in a report published on 8 October. The report reflects the findings from his official visit to the country from 2 to 6 June 2008.

Assessing the country’s human rights situation, the Commissioner proposes a set of practical recommendations for improvements in relation to the judiciary, police behaviour, media freedom, the treatment of refugees, the integration of the Roma minority, children’s rights and the rights of persons with disabilities.

“Corruption and lack of effective investigations and prosecutions for certain types of crimes, including war crimes, are impediments to any effective implementation of human rights standards” the Commissioner says. “It is therefore important to improve the functioning of the judiciary and to make it more effective and efficient.”

Commissioner Hammarberg recommends establishing an independent mechanism capable of conducting impartial and effective investigations of cases of police ill-treatment. Moreover, he stresses the need to enhance the legal and medical guarantees for every detainee and improve the conditions of prisoners, including their right to family life.

Minority protection needs to be stepped up by reviewing the current legal framework and increasing minority representation in the public sector. In particular, the Commissioner urges the authorities to improve the living conditions and access to rights of the Roma population.

The status of refugees in the country must be regularised, accompanied by concrete integration opportunities.

Pointing to practical measures to ensure better respect for the rights of persons with disabilities, the Commissioner stresses the importance of developing a comprehensive social policy that also

addresses the stigma surrounding these persons and their families. “The authorities should intensify de-institutionalisation efforts by developing community- and alternative-care solutions. The establishment of an independent body to conduct frequent and comprehensive inspections of healthcare facilities would also be an important measure.”

“While the media are free in general, subtle pressures and several unsolved incidents have resulted in self-censorship and uncertainty among the profession”, the Commissioner says, calling for better respect of media freedom. He recommends the authorities decriminalise defamation and ensure a fully independent media self-regulatory system.

On child rights, Commissioner Hammarberg recommends strengthening the existing Ombudsman structure, reactivating the Council for Child Rights and increasing the education offered in rural areas, all measures to make child protection more effective. He reiterates the need to respect children’s rights also when they are in conflict with the justice system. “Detaining children should only be a last resort and always for the shortest appropriate period of time as well as geared to their development needs.”

The report further emphasises the need to improve women’s protection and increase their participation in decision-making processes, to increase support to trafficking victims and better respect for the constitutional rights of lesbian, gay, bisexual and transgender people.

[Link to the report and the Government’s comments](#)
[Commissioner’s website.](#)

“UK must improve children’s protection and ban corporal punishment” reports Commissioner Hammarberg (09.10.08)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, presented on 9 October to the government of the United Kingdom a memorandum on corporal punishment. Pointing to deficiencies in UK legislation with regard to respect for children’s rights, the Commissioner expresses serious concern about the large number of children across the UK who suffer physical chastisement.

“The UK is one of the few European countries which have neither achieved full prohibition of corporal punishment nor committed themselves publicly to it. Worse, it is in a small minority whose laws actually persist in allowing parents and some other carers to justify some level of violence as ‘reasonable’ when it is regarded as discipline. This situation is unacceptable and must be changed.”

Criticising the specific national legislative provisions on corporal punishment, he emphasises that “laws allowing the definition of ‘justifiable assaults’ and ‘reasonable punishments’ on children are not compliant with international human rights standards. Moreover, the fact that children, uniquely, should have less protection under the criminal law from assault is additionally discriminatory and unimaginable,” he says.

Commissioner Hammarberg welcomes the change in language in discussions about corporal punishment and notes that the government now “does not condone smacking”. At the same time, he notes, “without a change in the law, this position lacks credibility.”

The Commissioner therefore recommends that the ‘reasonable punishment’ defence and the concept of ‘justifiable assault’ be removed completely from all relevant legislative provisions and that authorities throughout the UK develop an awareness and education programme on children’s rights to protect and promote positive parenting without violence. He also calls for child-friendly policies to be adopted so as to inform children about their right to protection from all forms of violence and the services and assistance that are available to them.

[Link to the memorandum together with the authorities’ response](#)

Commissioner Hammarberg visits Serbia to assess human rights situation in practice (10.10.08)

The Council of Europe’s Commissioner for Human Rights, Thomas Hammarberg, paid a one-week high-level official visit to Serbia from 13 until 17 October 2008. The Commissioner’s visit assessed the country’s human rights framework against its implementation and relevance in practice.

Covering a broad range of human rights areas, Mr Hammarberg’s agenda particularly focused on the state of rule of law including functioning of the judiciary, police behaviour, torture and ill-treatment, freedom of expression and of the media, minorities with a particular focus on the Roma minority, as well as a wide range of non-discrimination issues.

Besides Belgrade, the Commissioner’s agenda includes visits to the Sandzak region and the autonomous province of Vojvodina. With a view to getting first-hand, on-the-spot impressions of respect for individuals’ human rights, on-site visits to institutions with human rights relevance were carried out nationwide to police stations, detention centres, refugee camps, shelters for children and women as well as psychiatric institutions and social care homes.

Rounding up the visit, the Commissioner met the country's top State executives including the heads of state and government as well as the ministers of Justice, Interior, Labour, Health and Education. Further talks included the Speaker of Parliament, parliamentary groups, the Ombudsman, as well as representatives of relevant state agencies and local authorities. The Commissioner also met with representatives of leading international governmental and non-governmental organisations and the country's civil society opinion leaders.

The visit is part of the activities carried out in accordance with the Commissioner's mandate to assess the implementation of human rights commitments by all Council of Europe member states. An assessment report with relevant recommendations will be published early 2009.

B. Thematic work

The Commissioner addresses the conference on national minorities (10.10.08)

Commissioner Hammarberg took part in the opening of the conference on "Enhancing the impact of the Framework Convention for the Protection of National Minorities" held in the Council of Europe premises in Strasbourg. In his speech, he noted that, as the recent cruel conflict in South Ossetia showed, not enough has been done for the effective protection of national minorities which is essential to stability, democratic security and peace in Europe. While acknowledging the importance of the Framework Convention, he stressed that more efforts are required for the development of efficient internal and external synergies, in order to foster a proactive, result-oriented stance by all stakeholders and above all by those entrusted with the task of monitoring implementation.

The Commissioner gave a Keynote speech at the seminar on "Systematic Work for Human Rights - A challenge to local/regional politics",

Organised by the Swedish Association of Local Authorities and Regions in co-operation with the Congress of the Council of Europe and the Commissioner for Human Rights (Stockholm, 6 October 2008). [The Commissioner - CommDH/Speech\(2008\)14 / 10 October 2008](#)

Viewpoint : "[It is wrong to criminalize migration](#)" (29.09.08)

In his Viewpoint the Commissioner voices his concerns over the trend to criminalise the irregular entry and stay of migrants. "Such a method of controlling international movement corrodes established international law principles. It also causes many human tragedies without achieving its purpose of genuine control" he writes, proposing a more principled approach for immigration policies.

[In Russian](#)

Viewpoint : "[Human Rights education is a priority – more concrete action is needed](#)" (06.10.08)

"Education about human rights is central to the effective implementation of the agreed standards" writes the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, in his latest Viewpoint. The Commissioner underlines that governments have not given sufficient priority to human rights education in schools and call for further efforts in promoting inter-cultural understanding and respect.

[In Russian](#)

C. Miscellaneous (newsletter, agenda...)

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* No work deemed relevant for the NHRS for the period under observation.

Part VII : Special files

The situation concerning the South-Ossetia Conflict

European Court of Human Rights

2,700 applications received by the Court from South Ossetians against Georgia

As of 9 October 2008 the European Court of Human Rights had received some 2,729 applications from South Ossetians. These applicants allege that, in connection with the intervention of Georgian armed forces last August, they have been the victims of violations of the rights guaranteed by Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the European Convention on Human Rights and by Article 1 of Protocol No. 1 (protection of property) to the Convention. Among other complaints, they claim that they have sustained damage to their health and breaches of their property rights.

This very significant number of individual applications has increased the already considerable workload of the European Court of Human Rights, which has also received an inter-State application from Georgia against the Russian Federation arising out of last summer's events.

Committee for the Prevention of Torture

Extending the activities of the Council of Europe anti-torture Committee to Abkhazia and South Ossetia (03.10.08)

From 29 September to 2 October, representatives of the CPT had a series of contacts in Tbilisi and Sukhumi aimed at enabling the Committee to exercise its mandate throughout the territory of [Georgia](#).

In Tbilisi, the CPT's representatives held talks with the Minister and Deputy Minister of Justice, Nika Gvaramia and Tina Burjaliani, the Minister of Reintegration, Temuri Yakobashvili, the First Deputy Minister of Internal Affairs, Ekaterine Zguladze, and the Secretary of the National Security Council of Georgia, Alexander Lomaia, as well as with other senior government officials. They also met the Public Defender of Georgia, Sozar Subari.

Similar consultations were previously held in July 2008, following the postponement, at the Georgian authorities' request, of an intended ad hoc visit by the CPT to the regions of Abkhazia and South Ossetia. The new series of talks provided an opportunity to examine the implications of the recent armed conflict and subsequent developments for the planned ad hoc visit.

In Sukhumi, the CPT's representatives met the de facto Presidential Plenipotentiaries for human rights of Abkhazia and South Ossetia, respectively Georgyi Otyrba and David Sanakoyev, and explained to them the Committee's mandate and working methods.

The CPT's representatives also had discussions with members of the OSCE Mission to Georgia, the United Nations Observer Mission in Georgia, and the ICRC Delegation in Tbilisi.

The CPT trusts that these contacts have laid the foundations for the visit by the Committee to places of deprivation of liberty in Abkhazia and South Ossetia. The CPT remains committed to organising that visit in the near future.

Parliamentary Assembly of the Council of Europe:

- **[Recommendation 1846](#) (2008), 02.10.08 : The consequences of the war between Georgia and Russia.** See also [Doc. 11724](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr Van den Brande and Mr Eörsi; [Doc. 11731](#), opinion of the Political Affairs Committee, rapporteur: Mr Lindblad; [Doc. 11732](#) rev, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides; [Doc. 11730](#), opinion of the Committee on Migration, Refugees and Population, rapporteur: Mrs Jonker
- **[Resolution 1633](#) (2008), 02.10.08 : The consequences of the war between Georgia and Russia.**
- **[Resolution 1631](#) (2008) 01.10.08: Reconsideration of previously ratified credentials of the Russian delegation on substantial grounds.** See also [Doc. 11726](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Gross, and [Doc. 11728](#), opinion of the Committee on Rules of Procedure and Immunities, rapporteur: Mr Greenway.

'The Council of Europe must spare no criticism,' says the PACE President (29.09.08)

Referring to the crisis between Georgia and Russia at the opening of the PACE Autumn Session, its President, Lluís Maria de Puig, said today that "the Council of Europe must spare no criticism and must condemn all that it considers to be a violation of its principles and values with the utmost firmness". However, he went on to say, "We must, in particular, look to the future and show prudence and political vision, for we are all aware that the conflict between Georgia and Russia is fraught with consequences, not only for both countries but for the entire region". [Opening speech](#)

Memo by head of PACE delegation in Russia and Georgia made public (29.09.08)

A memorandum by Luc Van den Brande (Belgium, EPP/CD), the head of a PACE delegation which visited Russia and Georgia last week, was made public this morning by the Assembly's Bureau. The nine-member, cross-party delegation visited both countries to gather information ahead of a plenary urgent debate on "the consequences of the war between Georgia and Russia", due to take place on Tuesday and Thursday. ([Memorandum by Mr Van den Brande](#); [Video of press conference](#))

Yavuz Mildon: Flexible models of regional autonomy are alternatives to conflict (29.09.08)

"We strongly believe that alternatives of peaceful settlement were not exhausted in the case of South Ossetia and Abkhazia," said Yavuz Mildon, President of the Congress of Local and Regional Authorities, in his address to the Assembly on 29 September. He stated that the flexible models of regional autonomy constituted a sound alternative to conflict and specifically referred to the new European Charter of Regional Democracy which could be used in settling territorial disputes. Mildon underlined the importance of wider cooperation between the Congress and Parliamentary Assembly for the sake of democracy and benefit of Europeans. [Video of the speech](#) ; [Speech](#)

Commissioner for Human Rights

Georgia: Commissioner Hammarberg facilitates further releases and exchanges of detainees and hostages (29.09.08)

At the end of a four-day mission to Georgia including South Ossetia the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, stated that he was satisfied that important progress had been made on the release and exchange of persons who had been deprived of their liberty on each side. "Progress is also made on identifying the dead bodies exchanged and recently found thereby reducing the number of cases of missing persons whose fate are unknown" he said.

The Commissioner offered his good offices to both sides on these problems and achieved important agreements the result of which will be known within the coming weeks. He expressed his gratitude for the constructive responses from the parliamentarian Givi Targamadze in Tbilisi and ombudsman David Sanakoev in Tskhinvali.

'The progress achieved demonstrates that humanitarian issues can be resolved also in extremely complex political situations', the Commissioner concluded.

Commissioner Hammarberg presents his findings on special mission to Georgia (30.09.08)

Thomas Hammarberg presented before the Parliamentary Assembly a summary of his findings after his follow up mission to the areas affected by the South Ossetia conflict, including Tbilisi, Gori, Tskhinvali and Akhalgori from 25 to 27 September 2008.

The Commissioner underlined the need to implement in full the [six principles for urgent human rights and humanitarian protection](#), which were presented after his last mission to the region in late August. They cover the right to return, the provision of adequate aid and living conditions for the displaced and returnees, demining efforts in the war affected areas, the need to urgently address the law and order vacuum and personal insecurity in the 'buffer zone', continued humanitarian exchanges of prisoners of war, other detainees and persons in hiding as well as to ensure international presence and assistance to the persons in need in the affected areas in order to address human rights and humanitarian issues.

The Commissioner also stressed the need to lift the remaining impediments to full and unconditional access for international organisations to all relevant areas and he called on international actors to enhance the coordination of their respective work in order to promote a more effective human rights protection.

A report will be presented in the near future, with the Commissioner's assessment of the implementation of these six principles on the ground.