

**National Human Rights Structures Unit**

Strasbourg, 28 October 2010

**Regular Selective Information Flow  
(RSIF)  
for the attention of the National Human Rights Structures (NHRs)  
Issue n°49  
covering the period from 27 September to 10 October 2010**



“Promoting independent national non-judicial mechanisms for the protection of human rights,  
especially for the prevention of torture”  
(“Peer-to-Peer II Project”)

**Joint European Union – Council of Europe Programme**

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

**For any queries, please contact:**  
[markus.jaeger@coe.int](mailto:markus.jaeger@coe.int)

## TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	4
<b>PART I: THE ACTIVITIES OF THE EUROPEAN COURT OF HUMAN RIGHTS</b> .....	5
<b>A. Judgments</b> .....	5
1. Judgments deemed of particular interest to NHRs .....	5
2. Judgements referring to the NHRs .....	11
3. Other judgments issued in the period under observation .....	12
4. Repetitive cases .....	14
5. Length of proceedings cases .....	15
<b>B. The decisions on admissibility / inadmissibility / striking out of the list including due to friendly settlements</b> .....	15
<b>C. The communicated cases</b> .....	22
<b>D. Miscellaneous (Referral to grand chamber, hearings and other activities)</b> .....	25
<b>PART II: THE EXECUTION OF THE JUDGMENTS OF THE COURT</b> .....	26
<b>A. New information</b> .....	26
<b>B. General and consolidated information</b> .....	26
<b>PART III: THE WORK OF OTHER COUNCIL OF EUROPE MONITORING MECHANISMS</b> .....	27
<b>A. European Social Charter (ESC)</b> .....	27
<b>B. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)</b> .....	27
<b>C. European Commission against Racism and Intolerance (ECRI)</b> .....	28
<b>D. Framework Convention for the Protection of National Minorities (FCNM)</b> .....	28
<b>E. Group of States against Corruption (GRECO)</b> .....	28
<b>F. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)</b> .....	28
<b>G. Group of Experts on Action against Trafficking in Human Beings (GRETA)</b> .....	28
<b>PART IV: THE INTER-GOVERNMENTAL WORK</b> .....	29
<b>A. The new signatures and ratifications of the Treaties of the Council of Europe</b> .....	29
<b>B. Recommendations and Resolutions adopted by the Committee of Ministers (Adopted by the Committee of Ministers on 29 September 2010 at the 1094th meeting of the Ministers' Deputies)</b> .....	29
<b>C. Other news of the Committee of Ministers</b> .....	30
<b>PART V: THE PARLIAMENTARY WORK</b> .....	31

A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe adopted by the Assembly at its 36th Sitting on 5-8 October 2010..... 31

B. Other news of the Parliamentary Assembly of the Council of Europe ..... 31

**PART VI: THE WORK OF THE OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS .....35**

A. Country work..... 35

B. Thematic work..... 35

**PART VII: ACTIVITIES OF THE PEER-TO-PEER NETWORK (under the auspices of the NHRS Unit of the Directorate General of Human Rights and Legal Affairs) .....36**

## Introduction

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

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

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

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

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

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

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

We invite you to read the [INFORMATION NOTE No. 133](#) (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 - September 2010 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 considered 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 NHR Unit, is based on the [press releases of the Registry of the Court](#).

Some judgments are only available in French.

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

#### **Note on the Importance Level:**

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

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

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

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

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

- **Grand Chamber judgments**

**[Mangouras v. Spain](#) ([link](#) to the judgment in French) (no. 12050/04) (Importance 1) – 28 September 2010 – No violation of Article 5 § 3 – In view of the huge environmental damage caused by the marine pollution due to an oil spill from the applicant's ship, the domestic authorities had been justified in taking into account the seriousness of the offences and the amount of the loss imputed to the applicant when setting the amount of the applicant's bail**

The applicant was formerly the captain of the ship *Prestige*, which in November 2002 discharged the 70,000 tonnes of fuel oil it was carrying into the Atlantic Ocean when its hull sprang a leak. The oil spill caused an ecological disaster whose effects on marine flora and fauna lasted for several months and spread as far as the French coast. A criminal investigation was opened and the applicant was remanded in custody with the possibility of release on bail of three million euros (EUR). The applicant was detained for 83 days and granted provisional release when his bail was paid by the ship owner's insurers. The Spanish authorities later authorised the applicant's return to Greece, on condition that the Greek authorities enforced compliance with the periodic supervision to which he had been subject in Spain. As a result, he must report every two weeks to a police station. The criminal proceedings against him are still pending.

The applicant alleged, in particular, that the sum set for bail in his case had been excessive and had been fixed without his personal circumstances being taken into consideration.

In [a judgment of 8 January 2009](#), the Court held unanimously that there had been no violation of Article 5 § 3. The case was referred to the Grand Chamber at the applicant's request. The Court reiterated that under Article 5 § 3, bail could only be required as long as reasons justifying detention prevailed, and that the authorities had to take as much care in fixing appropriate bail as in deciding whether or not the continued detention was indispensable. While the amount of bail had to be assessed principally by reference to the accused and his assets, it was not unreasonable, in certain circumstances, to take into account also the amount of the loss imputed to him. The applicant had been deprived of his liberty for 83 days and had been released following the lodging of a bank guarantee of EUR 3,000,000. In fixing bail the Spanish courts had taken into consideration the risk that the applicant might abscond, taking the view that it was essential to ensure his appearance in court. They had also had regard to the seriousness of the offence of which he stood accused, the impact of the disaster on public opinion and the applicant's "professional environment", namely the maritime transport of petrochemicals. **New realities had to be taken into consideration in interpreting the requirements of Article 5 § 3, namely the growing and legitimate concern both in Europe and internationally in relation to environmental offences and the tendency to use criminal law as a means of enforcing the environmental obligations imposed by European and international law. The Court was of the view that the increasingly high standard being required in the area of human rights protection correspondingly required greater firmness in assessing breaches of the fundamental values of democratic societies.** Hence, it could not be ruled out that the professional environment which formed the setting for the activity in question should be taken into consideration in determining the amount of bail, in order to ensure that the measure was effective. Given the exceptional nature of the applicant's case and the huge environmental damage caused by the marine pollution, which had seldom been seen on such a scale, it was hardly surprising that the judicial authorities should have adjusted the amount required by way of bail in line with the level of liability incurred, so as to ensure that those responsible had no incentive to evade justice and forfeit the security. It was not certain that a level of bail set solely by reference to the applicant's assets would have been sufficient to ensure his attendance at the hearing. In addition, the very fact that payment had been made by the ship owner's insurer appeared to confirm that the Spanish courts, when they had referred to the applicant's "professional environment", had been correct in finding that a relationship existed between the applicant and the persons who were to provide the security. The Spanish courts had taken sufficient account of the applicant's personal situation, and in particular his status as an employee of the ship's owner, his professional relationship with the persons who were to provide the security, his nationality and place of permanent residence and also his lack of ties in Spain and his age. In view of the particular context of the case and the disastrous environmental and economic consequences, the authorities had been justified in taking into account the seriousness of the offences in question and the amount of the loss imputed to the applicant. The Court held, by ten votes to seven, that there had been no violation of Article 5 § 3. Judges Rozakis, Bratza, Bonello, Cabral Barreto, David Thór Björgvinsson, Nicolaou and Bianku expressed a joint dissenting opinion.

- **Right to life**

**[Karandja v. Bulgaria](#) (no. 69180/01) (Importance 2) – 7 October 2010 – Two violations of Article 2 (substantive and procedural) – (i) Unjustified use of deadly force against a non-violent fugitive – (ii) Lack of an effective investigation**

The case concerned the death of the applicant's son, who was shot by the police following his escape from a police station.

The applicant complained that her son had been killed by the police in circumstances in which the use of firearms was not absolutely necessary and that the authorities had failed to conduct an effective investigation into the incident. She also complained that she had not had an effective domestic remedy in respect of the alleged violations.

In a previous similar case, the Court had already noted with concern that the Bulgarian Police Act allowed police to use firearms to arrest a suspect, regardless of the seriousness of his or her alleged offence or the danger which he or she represented. A simple warning was apparently sufficient for the prosecuting authorities and the courts to find that the use of firearms had been "a means of last resort" within the meaning of the Act. The Act also allowed police to use firearms to prevent the escape of any individual detained for having committed a prosecutable offence, regardless of its seriousness or the danger which he or she posed. The Court could not but confirm the conclusion it had reached in the earlier case that the relevant provisions of national law as applied by the national authorities were fundamentally insufficient to protect those concerned against unjustified and arbitrary encroachments on their right to life. The legitimate aim of effecting a lawful arrest could only justify putting human life

at risk in circumstances of absolute necessity. There was no such necessity where it was known that the person to be arrested posed no threat to life or limb and was not suspected of having committed a violent offence, even if a failure to use lethal force might result in the fugitive being lost. The Court accepted that the applicant had been trying to escape from lawful detention and that he was killed during an unplanned operation for which the police had had no prior preparation. However, the police had had no reason to believe that he would represent a danger to them or third parties if not prevented from fleeing, given that he had been detained in connection with non-violent offences. In those circumstances, any resort to potentially deadly force was prohibited by Article 2. Moreover, the presence near the scene of other officers suggested that the police could have tried to prevent the applicant from escaping without using firearms. The Court therefore unanimously concluded that Bulgaria had failed to comply with its obligations under Article 2 as regards the use of deadly force against the applicant. As regards the State's obligation to investigate the incident, the Court noted that the authorities had disregarded the fact that the police officer had had no reason to believe that the applicant was dangerous, the fact that other ways of preventing him from fleeing might have existed and that it was questionable whether the officer had been entitled at all to use firearms to keep the applicant from escaping. The Court further observed that, despite a prompt initial reaction by the investigating authorities, it took more than ten months for the official investigation to get under way. It did not seem that any serious effort was made to identify civilian eyewitnesses and take statements from them, or to find the spent cartridges from all the shots fired by the police officer. Without the information that such steps could have yielded, it had not been possible to check the officer's account of the events. This had made it impossible to determine why, if the officer had been aiming for the applicant's legs, he had ended up shooting him in the back of the head. For more than two years the investigating authorities had failed to properly inform the applicant of the results of the investigation and she had ultimately been unable to effectively challenge its findings as a result of the automatic system for reviewing discontinuance of criminal investigations in force between January 2000 and May 2001. The opportunity to lodge objections with the investigator had been clearly insufficient in that regard because the investigator himself who had responded to them and because they had not altered in the slightest his final proposal to the prosecuting authorities. The applicant had therefore not been involved in the procedure to the extent necessary to safeguard her legitimate interests. The Court unanimously concluded that there had also been a violation of Article 2 on account of the shortcomings of the investigation.

- **III-treatment**

**Sadykov v. Russia (no. 41840/02) (Importance 3) – 7 October 2010 – Two violations of Article 3 (substantive and procedural) – (i) The accumulation of the acts of violence inflicted on the applicant and the exceptionally cruel amputation of his left ear amounted to torture – (ii) Lack of an effective investigation – No violation of Article 1 of Protocol No. 1 – Lack of sufficient evidence to conclude that the alleged destruction and looting of the applicant's house and property was imputable to the State – Violation of Article 1 of Protocol No. 1 – Theft of the applicant's Oldsmobile car and Subaru car, taken from the applicant by State agents without justification – Violation of Article 13 – Lack of an effective remedy regarding the applicant's complaints under Article 3 and Article 1 of Protocol No. 1 – Violation of Article 38 § 1 (a) – Domestic authorities' failure to submit copies of the documents requested in respect of the ill-treatment of the applicant and the theft of his two cars**

At the time of the events, the applicant, a school teacher, was living alone in his house in Grozny helping local people find food and water. On 5 March 2000, while he was handing out drinking water to local people in the Oktyabrskiy District of Grozny, federal servicemen in two UAZ vehicles stopped to ask for directions. He went with them to show them the way. However, on arrival, without checking his identity papers, they put a bag over his head, hit him and took him to the Temporary Office of the Interior of the Oktyabrskiy District of Grozny (the VOVD). On arrival, he claimed he was: beaten, forced to eat his own hair, that a red-hot nail was pressed into his hands, forehead, nostrils and tongue and a derogatory word – "Chichik" – carved on his forehead. He was questioned about being a rebel fighter and later police officers "played football" with him for about two hours, kicking him and throwing him onto a concrete floor. He lost consciousness several times. The officers subsequently claimed that they had found a TNT block in the applicant's house. The applicant claimed that a police officer cut off his left ear. The applicant was detained from March 5 to 24 May 2000 (when he was released without charge). He was denied a medical examination and proper treatment for his ear. He stated that he was kept in cell next to a torture chamber where he heard the screams of his fellow detainees, two of whom came back with missing fingers and one, unconscious. He was later forced to sign a false confession that the TNT block was his. Medical documents, produced during the investigation, recorded that the applicant's left ear had been amputated, requiring plastic surgery and leaving him deaf in that ear and with lasting physical and psychological damage. He had lost at least 11 (and as many as 19) teeth, had at least four fractured ribs, scars on the left side of his lower jaw,

possible fracture of the bridge of his nose, possible fracture of his right leg and a scar on the palm of his right hand. According to the Russian Government, the applicant was arrested after an explosive was found in his house. On 20 February 2006 the proceedings against him were terminated. Following his release, the applicant complained to various prosecutors about his ill-treatment. He also claimed that: his dog had been shot, his house burnt and his belongings looted. His two Subaru vehicles and his Oldsmobile car were also missing. Overall he estimated the cost of the damage done at 158,120 United States dollars. According to the Russian Government, in July 2000, Grozny prosecutor's office started criminal proceedings concerning the applicant's complaints. A decision of January 2007 stated that State agents in various positions of authority at the VOVD were responsible for the following: on 5 March 2000, beating and kicking the applicant, burning his hand with a metal bar, cutting his hair and forcing him to eat it; on 11 March 2000, knocking down and kicking the applicant and allowing the deputy head of the special fire group, who was drunk and had a knife, to cut off the applicant's ear; and stealing and selling his Oldsmobile car. However, the investigation into the alleged ill-treatment was ultimately stayed, in February 2009, on the ground that the various suspects could not be found. The complaints concerning theft and destruction of property were disjoined and a new set of criminal proceedings ordered. The courts refused to examine the applicant's civil claims and dismissed his compensation claims. The applicant obtained 300,000 roubles (RUB) (approximately EUR 7,700) for his house and RUB 50,000 (approximately EUR 1,300) for the other property (the maximum amounts possible) under a governmental decree providing compensation for individuals who had lost property as a result of the conflict in the Chechen Republic.

The applicant claimed that he had been ill-treated and tortured by the police while in detention. He further alleged that his house had been looted and burnt while he had been in detention and that the investigations into his allegations had been ineffective. Lastly, he complained about the State's failure to submit to the European Court of Human Rights the investigation files regarding his case.

#### Article 3 (substantive)

The Court did not consider to be plausible the Russian Government's explanation that unknown rebel fighters had cut off the applicant's ear prior to his arrest. It had not satisfactorily demonstrated that the applicant's injuries were caused otherwise than – entirely, mainly or partly – by the ill-treatment he endured while in detention. The Court therefore accepted the applicant's account of events. The Court had no doubt that the applicant experienced severe physical pain and suffering, and that the ill-treatment in question was inflicted on him intentionally, to force him to confess or provide information. The intensity of the abusive treatment was attested by the medical documents. That a police officer cut off the applicant's left ear was an especially grave and abhorrent form of ill-treatment which not only caused him acute physical pain but also left him mutilated and deaf in his left ear, with long-lasting negative psychological damage. It was undoubtedly intentional, designed to intimidate, humiliate and debase him and possibly break his physical and moral resistance. The Court found it shocking that such a horrid act of violence was committed by a police officer who was a representative of the State seconded to the Chechen Republic to maintain constitutional order in the region and called upon to protect the interests of civilians. The Court concluded that the applicant was kept in a permanent state of physical pain and anxiety owing to his uncertainty about his fate and to the level of violence to which he was intentionally subjected by agents of the Russian State throughout his detention. Both the accumulation of the acts of violence inflicted on him and the exceptionally cruel amputation of his left ear amounted to torture, in violation of Article 3.

#### Article 3 (procedural)

The Court noted that the investigation was protracted and plagued with inexplicable shortcomings and delays in taking the most trivial steps. It was manifestly, if not intentionally, incompetent when it came to establishing the whereabouts of the officers identified by the applicant and his cellmate as the perpetrators. It was pending for at least eight years and seven months, during which time it was stayed and reopened 37 times and was plagued with long inexplicable periods of inactivity. It appeared that the applicant was informed of the progress in the investigation only occasionally and fragmentarily, and was denied full access to the case file. It was questionable whether the investigation could possibly have lead to the identification and punishment of those responsible. The Court concluded that the authorities had failed in their obligation to carry out a thorough and effective investigation into the alleged ill-treatment, in violation of Article 3.

#### Article 1 of Protocol No. 1

The Court reiterated that, given the prevalence of violent clashes between the armed forces and rebels in the region at the time in question, the Russian State could not be presumed responsible for the destruction of the applicant's property. There had therefore been no violation of Article 1 of Protocol No. 1 concerning the alleged destruction and looting of his house and property. Concerning the alleged theft of the applicant's Oldsmobile car and Subaru car, the Court considered it established



that they were taken from the applicant by State agents without justification, in violation of Article 1 of Protocol No. 1.

#### Article 13

The Court reiterated that the domestic investigation into the applicant's ill-treatment was inadequate. Consequently, any other available remedy, including a claim for damages, had limited chances of success. The Court therefore found that the applicant had been denied an effective domestic remedy in respect of his ill-treatment, in violation of Article 13, in conjunction with Article 3. Concerning the theft of the applicant's cars, the only potentially effective domestic remedy would have been an adequate criminal investigation. In the absence of any meaningful results of the investigation into the theft, his civil claim for damages for his stolen vehicles would hardly have had any prospect of success given, in particular, that State officials denied their involvement in the offence. The compensation he received was awarded irrespective of the particular circumstances in which the property had been lost or the value of the lost property. There was therefore a further violation of Article 13 in conjunction with Article 1 of Protocol No. 1, concerning the theft of the cars.

#### Article 38 § 1 (a)

The Court found that the Russian Government fell short of their obligations under Article 38, given their failure to submit copies of the documents requested in respect of the ill-treatment of the applicant and the theft of his two cars.

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

**Konstantin Markin v. Russia (no. 30078/06) (Importance 1) – 7 October 2010 – Violation of Article 14 in conjunction with Article 8 – Domestic authorities' refusal to grant a serviceman parental leave, while servicewomen were entitled to such leave, amounted to discrimination**

The case concerned the authorities' refusal to grant the applicant, a serviceman in the military, parental leave, which represented a difference in treatment compared to female military personnel and civilians.

The applicant complained that the refusal to grant him parental leave amounted to discrimination on account of sex.

The Court rejected the Russian Government's request for the application to be struck out of its list of cases in accordance with Article 37 in view of the measures taken by the domestic authorities to redress the applicant's situation. It underlined that its judgments served not only to provide individual relief, but also to safeguard and develop the rules instituted by the Convention. **The alleged discrimination under Russian law against male military personnel as regards entitlement to parental leave involved an important question of general interest, which the Court had not yet examined.** While Article 8 did not include a right to parental leave, the Court underlined that if a State decided to create a parental leave scheme, it had to do so in a non-discriminatory manner. Advancing the equality of men and women was today a major goal in the Council of Europe member States and very weighty reasons had to be put forward before a difference in treatment between the sexes could be regarded as compatible with the Convention. The Court was not convinced by the Constitutional Court's argument that the different treatment of male and female military personnel concerning parental leave was justified by the special social role of mothers in the upbringing of children, as parental leave was intended to enable the parent to look after the infant at home. As regards this role, both parents were in a similar position. Over the last decade, the legal situation as regards parental leave entitlements had evolved. In an absolute majority of Council of Europe member States the legislation now provided that parental leave could be taken by both mothers and fathers. Russia could therefore not rely on the absence of a common standard among European countries to justify such difference in treatment. Furthermore, the Court was not convinced by the argument of the Russian Constitutional Court that military service required uninterrupted performance of duties and that therefore the taking of parental leave by servicemen on a large scale would have a negative effect on the operational effectiveness of the armed forces. Indeed, there was no expert study or statistical research on the number of servicemen who would be in a position to take three years' parental leave at any given time and who would be willing to do so. The Constitutional Court had thus based its decision on pure assumption. Its argument that a serviceman was free to resign if he wished to take personal care of his children was particularly striking, given the difficulty in directly transferring essentially military qualifications and experience to civilian life. For these reasons, the Court considered that not entitling servicemen to parental leave, while servicewomen were entitled to such leave, was not reasonably justified. It therefore concluded, by six votes to one, that there had been a violation of Article 14 in conjunction with Article 8. Judge Kovler expressed a dissenting opinion.

**Przyjemski v. Poland (no. 6820/07) (Importance 3) – 5 October 2010 – Violation of Article 8 – Monitoring of the applicant’s correspondence with the Court**

The applicant was arrested and remanded in custody in 2006 on suspicion of threatening and assaulting his partner. He complained about the interception of his correspondence with the Court during his detention.

The Court noted that both of the letters the applicant addressed to the Court were marked “censured” (“ocenzurowano”), which meant that the letters had been opened and read by a competent authority. The Court recalled various similar cases against Poland (see for example *Pisk–Piskowski v. Poland*), in which it had declared that as long as the stamp mark “ocenzurowano” was present on detainees’ correspondence, it could not but consider that those letters had been opened and read. The Court also recalled that in national law, the correspondence of detainees with international human rights institutions was not subject to censorship. Accordingly, the interference with the applicant’s right to respect for correspondence with the Court was not in “accordance with the law”, in violation of Article 8.

- **Protection of property**

**J. M. v. the United Kingdom (no. 37060/06) (Importance 1) – 28 September 2010 – Violation of Article 14 in conjunction with Article 1 of Protocol No. 1 – Rules on child maintenance prior to the introduction of the Civil Partnership Act discriminated against those in same-sex relationships**

The applicant is the divorced mother of two children. Her former husband became the parent with care of the children and the applicant, as the non-resident parent, was required to contribute financially to the cost of their upbringing. Since 1998 the applicant has been living with another woman in an intimate relationship. Her child maintenance obligation was assessed in September 2001 in accordance with the regulations that applied at that time, which provided for a reduced amount where the absent parent had entered into a new relationship, but took no account of same-sex relationships. The applicant complained that the difference was appreciable (she was required to pay approximately 47 British pounds (GBP) per week, whereas if she had formed a new relationship with a man the amount due would be around GBP 14). Her complaint was upheld by three levels of jurisdiction, but the case was overturned by a majority ruling in the House of Lords in 2006. Two members of the majority held that the applicant’s situation did not fall within the ambit of Article 8 as the link between the regulations and her relationship with her partner was too tenuous. They considered that the United Kingdom had remained within its margin of appreciation up to the point in time when the Civil Partnership Act 2004 removed the difference in treatment complained of. The other two members of the majority held that same-sex relationships were not, at that time, recognised by the Strasbourg case-law as a form of family life within the meaning of Article 8. All of the members of the majority rejected the argument that the situation was within the ambit of Article 1 of Protocol No. 1 as they saw that provision as primarily concerned with the expropriation of assets for a public purpose and not with the enforcement of a personal obligation of an absent parent and that it would be artificial to view child support payments as a deprivation of the absent parent’s possessions.

J.M. alleged that, when setting the level of child maintenance she was required to pay, the authorities had discriminated against her on the basis of her sexual orientation.

The Court decided that the case fell within the scope of Article 1 of Protocol No. 1. The sums paid by the applicant out of her own financial resources towards the upkeep of her children were to be considered as “contributions” since payment was required by the relevant legislative provisions. Article 14 thus applied to the situation complained of. In order for an issue to arise under Article 14, there had to be a difference in the treatment of persons in relevantly similar situations. Where the complaint was one of discrimination on grounds of sexual orientation, the State had to give particularly convincing and weighty reasons to justify such a difference in treatment. The Court considered that the applicant could compare her situation to that of an absent parent who had formed a new relationship with a person of the opposite sex, the only point of difference being her sexual orientation. Therefore, her maintenance obligation towards her children had been assessed differently on account of the nature of her new relationship. Bearing in mind the purpose of the domestic regulations, which was to avoid placing an excessive financial burden on the absent parent in their new circumstances, the Court could see no reason for such difference in treatment. It was not clear why the applicant’s housing costs should have been taken into account differently than would have been the case had she formed a relationship with a man. The Court therefore concluded that there lacked sufficient justification for such discrimination in 2001-2002. The reforms introduced by the Civil Partnership Act some years later, however laudable, had no bearing on the matter. The Court held that there had been a violation of Article 14 in conjunction with Article 1 of Protocol No. 1.

- **Right to free elections**

**Kerimova v. Azerbaijan (no. 20799/06) (Importance 3) – 30 September 2010 – Violation of Article 3 of Protocol No. 1 – Domestic authorities’ unsubstantiated and arbitrary invalidation of parliamentary election results**

The case concerned the invalidation by the electoral authorities of the November 2005 parliamentary elections in the constituency in which the applicant was a candidate. The applicant stood as a candidate for the opposition bloc Azadliq in the November 2005 elections to Parliament (Milli Majlis). The copies of the results she obtained from the local electoral commission at the end of the Election Day showed that she had received the largest number of votes in her constituency. In particular, she had obtained 5,566 votes as compared to the 3,922 votes cast in respect of a candidate from the ruling political party who came second. Following the official tabulation of the results the next day, the applicant featured in the electoral protocol as “the elected candidate”. On 8 November 2005, the Central Election Commission invalidated the election results in the applicant’s constituency as it found that the protocols had been tampered with to the effect that it was impossible to determine the will of the voters. The applicant appealed, arguing that the changes in the protocols had in effect reduced the number of votes recorded in her favour and had increased those cast in favour of the candidate immediately after her. She pointed out that she remained the winner despite the falsifications to her disadvantage. Her appeals were unsuccessful. In the meantime, two election officials were criminally convicted for having falsified the election results in the applicant’s constituency, to the benefit of candidates other than herself.

The applicant complained that the invalidation of the election results in her constituency had been arbitrary and unlawful and had infringed her electoral rights as the winner of the election.

The Court noted that it had been sufficiently clear that, according to the election results both before and after the irregularities, the applicant had been the winner of the elections. Despite that, in their decision to invalidate the results, the election authorities had not given reasons as to why they found that the alterations obscured the outcome of the elections. Neither had the authorities even considered the possibility of recounting the votes once the irregularities had been established. Consequently, the decision to invalidate the election had been unsubstantiated and arbitrary. The Court further noted that the relevant national law applicable at the time, the Electoral Code, had prohibited the invalidation of election results at any level on the basis of a finding of irregularities committed for the benefit of candidates who lost the election. Irrespective of that rule, which protected the opinion and free will of the people who voted and aimed at preventing the wrongful punishing of a winning candidate, the domestic courts had simply reiterated the election commission’s findings. As a result, the authorities’ inadequate approach had brought about a situation where the election process in the entire electoral constituency had been single-handedly sabotaged by two electoral officials who had abused their position by making changes to a number of election protocols. By arbitrarily invalidating the election results because of those officials’ actions, the national authorities had essentially helped them to obstruct the election. While the two officials had not succeeded in influencing the ultimate outcome of the elections, the invalidation decision itself had had that effect. That decision had arbitrarily infringed the applicant’s electoral rights by depriving her of the benefit of being elected to Parliament; it had also shown lack of concern for the integrity of the electoral process, which could not be considered compatible with the spirit of the right to free elections under the Convention. There had, therefore, been a violation of Article 3 of Protocol No. 1.

- **Disappearances cases in Chechnya**

**Merzhuyeva and Others v. Russia (nos. 27315/06 and 27449/06) (Importance 3) – 7 October 2010 – Two violations of Article 2 – (i) Disappearance and presumed death of the applicants’ close relatives, Khamzat Merzhoyev and Ali Gastamirov, following their unacknowledged detention by State servicemen – (ii) Lack of an effective investigation – Violation of Article 3 – Mental suffering in respect of the first six applicants – Violation of Article 5 – Unacknowledged detention of the applicants’ close relatives – Violation of Article 13 in conjunction with Article 2 (first six applicants) – Lack of an effective remedy**

## **2. Judgments referring to the NHRs**

**Hinczewski v. Poland (no. 34907/05) (Importance 3) – 5 October 2010 – Violation with Article 8 – The interference with the applicant’s correspondence with the Court and the Ombudsman was not “in accordance with the law”**

In September 1994 the applicant was convicted of burglary by the Dąbrowa Górnicza District Court (*Sąd Rejonowy*) and sentenced to two years and three months’ imprisonment. The applicant served

this sentence between 2005 and 2007. On 25 September 2005 the applicant, who was at that time serving his sentence in the Katowice Detention Centre, unsuccessfully attempted to vote in the parliamentary elections. On the same date he wrote a “declaration” in which he complained to the Katowice Local Electoral Commission (*Obwodowa Komisja Wyborcza*) about not being allowed to vote. In 2006 the applicant sent the Court a letter from the Sosnowiec Detention Centre. The envelope in which the letter was delivered to the Registry bears the following stamp: “Będzin District Court Censored” (*Sąd Rejonowy w Będzinie Cenzurowano*) and an illegible signature. An identical stamp “Bedzin District Court Censored” with an illegible signature can be found on the second page of the applicant’s letter addressed to the Registrar. The envelope bears signs of having been opened: its right side has been cut open and then resealed with sellotape. The applicant submitted that his letter from the Ombudsman had been interfered with by the authorities. He provided the original envelope in which the letter was delivered to him. The envelope bears the stamp of the sender, the Office of the Ombudsman in Warsaw, and is postmarked July 2005. According to other stamps, it appears that the letter arrived at the Sosnowiec Detention Centre in 1 August 2005, and was then sent to the Dabrowa Gornicza District Prosecutor, who returned it to the Detention Centre on 11 August 2005. On the stamp of the Dabrowa Gornicza District Prosecutor there is a handwritten note: “Censored” (*Ocenzurowano*) and an illegible signature. The envelope bears signs of having been opened: the top has been cut open and then resealed with sellotape.

The applicant complained that his letter from the Ombudsman was interfered with in breach of Article 8 of the Convention. In addition the Court raised of its own motion a complaint under Article 8 of the Convention in respect of the applicant’s correspondence with the Registry of the Court.

The Court noted that the applicant’s letter of 9 July 2006 addressed to the Court bears signs of having been opened and then resealed. The envelope and the second page of the letter bear stamps: “Bedzin District Court Censored”. Moreover, the letter from the Ombudsman of 27 July 2005 addressed to the applicant was apparently intercepted by the Dabrowa Gornicza District Prosecutor. The Court has held on many occasions that as long as the Polish authorities continue the practice of marking detainees’ letters with the *ocenzurowano* stamp, the Court has no alternative but to presume that those letters have been opened and their contents read (see *Matwiejczuk v. Poland*). That is even more so if there is a separate stamp on the letter, as in the present case. It follows that the monitoring of the applicant’s correspondence with the Court and the Ombudsman amounted to an “interference” with the applicant’s right to respect for his correspondence under Article 8. The Court notes that the interference took place while the applicant was serving a prison sentence. As regards the interference with the applicant’s right to respect for his correspondence with the Court, it observes that the Polish 1997 Code expressly prohibits the monitoring of correspondence with the Court (see *Michta v. Poland*). Similarly, interference with an applicant’s correspondence with a State authority, including the Ombudsman, was contrary to the statutory prohibition laid down in the 1997 Code. Thus, the interference with the letters from the Ombudsman to the applicant and from him to the Registry of the Court was contrary to the domestic law. It follows that the interference with the applicant’s correspondence with the Court and the Ombudsman was not “in accordance with the law”. Consequently, the Court found that there had been a violation of Article 8 of the Convention.

### 3. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 28 Sept. 2010: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 30 Sept. 2010: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 5 Oct. 2010: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 7 Oct. 2010: [here](#)

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

<u>State</u>	<u>Date</u>	<u>Case Title and Importance of the case</u>	<u>Conclusion</u>	<u>Key Words</u>	<u>Link to the case</u>

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

Bulgaria	30 Sept. 2010	Deyanov (no. 2930/04) Imp. 2	Violation of Art. 6 § 1  Violation of Art. 13	Excessive length of civil proceedings concerning the investigation into the applicant's son's disappearance (more than eight years)  Lack of an effective remedy	<a href="#">Link</a>
Bulgaria	30 Sept. 2010	Marinov (no. 37770/03) Imp. 2	No violation of Art. 3	Lack of sufficient evidence to conclude that the applicant had been ill-treated by police officers; effective investigation into the alleged ill-treatment	<a href="#">Link</a>
Bulgaria	07 Oct. 2010	Georgi Atanasov (no. 5359/04) Imp. 2	Violation of Art. 1 of Prot. 1  Violation of Art. 13	Domestic authorities' seizure of the applicant's vehicle as evidence in criminal proceedings and failure to return it for more than ten years Lack of an effective remedy	<a href="#">Link</a>
Bulgaria	07 Oct. 2010	Pankov (no. 12773/03) Imp. 2	No violation of Art. 2  No violation of Art. 13	The authorities took sufficient precautions to avert the risk of accidental injury or death during the army shooting practice  Effective criminal investigation	<a href="#">Link</a>
Finland	28 Sept. 2010	A.S. (no. 40156/07) Imp. 3	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 (d)	The applicant's conviction was on the basis of a video-taped interview with a child, the only direct evidence against him, without having had the opportunity to ask direct questions to the witness in question	<a href="#">Link</a>
Greece	07 Oct. 2010	Antonopoulou and Others (no. 49000/06) Imp. 2	Just satisfaction	Decision of just satisfaction due to the <a href="#">judgment</a> of 16 July 2009, in which the Court concluded that there had been a violation of Art. 6 § 1 and Art. 1 of Prot. 1	<a href="#">Link</a>
Malta	28 Sept. 2010	Schembri and Others (no. 42583/06) Imp. 3	Just satisfaction	Decision of just satisfaction due to the <a href="#">judgment</a> of 10 February 2009, in which the Court concluded that there had been a violation Art. 1 of Prot. 1	<a href="#">Link</a>
Moldova	28 Sept. 2010	Gusan (no. 22539/05) Imp. 3	Just satisfaction	Decision of just satisfaction due to the <a href="#">judgment</a> of 28 October 2009, in which the Court concluded that there had been a violation of Art. 6 § 1 and Art. 1 of Prot. 1	<a href="#">Link</a>
Poland	05 Oct. 2010	Hartman (no. 20342/07) Imp. 3	No violation of Art. 5 § 3	Justified length of the applicant's detention on remand in view of the circumstances of the case	<a href="#">Link</a>
Romania	05 Oct. 2010	Ghiga Chiujdeu (no. 4390/03) Imp. 3	No violation of Art. 3 (substantive)  Violation of Art. 3 (procedural)	Lack of sufficient evidence to conclude that the applicant had been ill-treated by police officers Lack of an effective investigation	<a href="#">Link</a>
Russia	07 Oct. 2010	Skachkov (no. 25432/05) Imp. 3	Violation of Art. 3	Conditions of detention in remand prison no. 77/2 in Moscow ( <a href="#">see the CPT's Report to the Russian Government on the visit to the Russian Federation from 2 to 17 December 2001</a> )	<a href="#">Link</a>
Russia	30 Sept. 2010	Korogodina (no. 33512/04) Imp. 3	Violation of Art. 2 (procedural)	Lack of an effective investigation into the applicant's son's death as a result of medical negligence	<a href="#">Link</a>
Russia	30 Sept. 2010	Pakhomov (no. 44917/08) Imp. 2	No violation of Art. 3	The applicant received comprehensive, effective and transparent medical assistance in respect of his tuberculosis while in detention ( <a href="#">see the 3rd General Report on the CPT's Activities (1992)</a> and the <a href="#">11th General Report on the CPT's Activities (2000)</a> )	<a href="#">Link</a>
Serbia	05 Oct.	Rakić and Others (no.	Violation of Art. 6 § 1	Interference with the applicants' right to a fair hearing on account of	<a href="#">Link</a>

	2010	47460/07, 49257/07, etc.) Imp. 3		the judicial inconsistency before the District Court in Belgrade	
Spain	28 Sept. 2010	San Argimiro Isasa (no. 2507/07) Imp. 3	No violation of Art. 3 (substantive)  Violation of Art. 3 (procedural)	Lack of sufficient evidence to conclude that the applicant had been ill-treated during arrest and detention Lack of an effective investigation (see the <a href="#">CPT's Report to the Spanish Government on the visit to Spain from 22 November to 4 December 1998</a> , the <a href="#">CPT's Report to the Spanish Government on the visit to Spain from 22 to 26 July 2001</a> , and the <a href="#">CPT's Report to the Spanish Government on the visit to Spain from 22 July to 1 August 2003</a> )	<a href="#">Link</a>
the Czech Republic	30 Sept. 2010	Žirovnický (no. 23661/03) Imp. 2	Violation of Art. 5 §§ 1, 4 and 5	Unlawfulness of detention, lack of a speedy review of the lawfulness of the detention, lack of an enforceable right to compensation for the unlawful detention	<a href="#">Link</a>
Ukraine	07 Oct. 2010	Bogatova (no. 5231/04) Imp. 3	Violation of Art. 6 § 1	Domestic courts' failure to consider the applicant's argument that the amount of her pension had been determined contrary to the requirements of the Constitution	<a href="#">Link</a>
Ukraine	07 Oct. 2010	Pokhalchuk (no. 7193/02) Imp. 3	Two violations of Art. 6 § 1 (length)  Violation of Art. 2 of Prot. 4	Excessive length of civil proceedings (more than ten years) and excessive length of criminal proceedings (almost ten years and still pending) Disproportionate interference with the applicant's right to freedom of movement on account of the measure prohibiting him to leave his place of residence for almost ten years	<a href="#">Link</a>
Ukraine	07 Oct. 2010	Znaykin (no. 37538/05) Imp. 3	Violation of Art. 3  Violation of Art. 5 § 1	Conditions of detention in the Simferopol SIZO and the Feodosiya ITT Unlawfulness of the applicant's detention for two periods of detention	<a href="#">Link</a>
Ukraine	30 Sept. 2010	Vladimir Polishchuk and Svetlana Polishchuk (no. 12451/04) Imp. 3	(Mrs Polishchuk) Violation of Art. 8 (Mrs Polishchuk) Violation of Art. 13	Unlawfulness of a search carried out by the police in the applicants' home Lack of an effective remedy	<a href="#">Link</a>

#### 4. Repetitive cases

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

The role of the 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</u>
Poland	05 Oct. 2010	Balcer (no. 19236/07) <a href="#">link</a> Staniszewski (no. 28157/08)	No violation of Art. 6 § 1	The legal-aid lawyer's refusal to bring a cassation appeal to the Supreme Court in the criminal proceedings to which the applicants had been a party was justified on account of the applicants' lack of diligence which should

		<a href="#">link</a>		normally be expected from a party to civil proceedings
Poland	05 Oct. 2010	Kramarz (no. 34851/07) <a href="#">link</a>	Violation of Art. 6 § 1	Infringement of the right of access to a court on account of the legal aid lawyer's refusal to prepare a cassation appeal
Poland	05 Oct. 2010	Szparag (no. 17656/06) <a href="#">link</a> Urbanowicz (no. 40459/05) <a href="#">link</a>	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 (c)	Idem.
Russia	30 Sept. 2010	Matveyev and Others (nos. 43578/06, 19435/07, 21338/07, etc.) <a href="#">link</a>	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments in the applicants' favour in good time
Serbia	05 Oct. 2010	Jovančić (no. 38968/04) <a href="#">link</a>	Violation of Art. 8	The interference with the applicant's correspondence with the Court by prison authorities had not been "in accordance with the law"
Turkey	05 Oct. 2010	Ölmez and Turgay (no. 2318/09, 12616/09, 23563/09, etc.) <a href="#">link</a>	Violation of Art. 10	The practice of banning the future publication of entire periodicals went beyond any notion of "necessary" restraint in a democratic society and amounted to censorship (see also <i>Urper and Others</i> )

## 5. Length of proceedings cases

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

The role of the 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.

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Link to the judgment</u>
Italy	28. Sept. 2010	Reina and Others (nos. 26311/03, 26312/03 etc.)	<a href="#">Link</a>
Russia	07 Oct. 2010	Utyuzhnikova (no. 25957/03)	<a href="#">Link</a>
Slovakia	05 Oct. 2010	Čechová (no. 33378/06)	<a href="#">Link</a>
Slovakia	05 Oct. 2010	Szigetiová (no. 40047/06)	<a href="#">Link</a>

## 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 20 September to 3 October 2010.**

They are aimed at providing the NHRs 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 referring to the NHRs**

**Sydänmäki v. Finland (no 45809/06) – 21 September 2010 – Alleged violation of Articles 6, 14, 17 and Prot. 12 (difference in treatment in financial terms of men and women who had entered into the service of the Bank of Finland before 3 May 1977, unfairness of proceedings, discrimination on grounds of sex), the Deputy Parliamentary Ombudsman and the Deputy Chancellor of Justice and their Offices' failure to examine the applicant's petitions in full – Partly inadmissible (for non-respect of the six-month requirement concerning claims under Art. 14 in conjunction with Art. 1 of Prot. 1), partly incompatible *ratione materiae* (concerning the Deputy Parliamentary Ombudsman and the Deputy Chancellor of Justice and their Offices' failure to examine the applicant's petitions in full and the alleged partiality of the Supreme Administrative Court), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)**

In October 1974 the applicant became a civil servant employed by the Bank of Finland ("the Bank") where he worked until his retirement. In June 1998 the Trustees of the Bank amended the pension rules of the Bank so that men who had entered into the service of the Bank prior to 3 May 1977 and who continued their employment until retirement were also granted an opportunity to lower their retirement age from 60 to 55-59. For each month the retirement age was lowered, the pension accrued prior to 1 January 1994 was reduced by 0.33%. At its highest the early retirement reduction was 19.80% for five years. Under the pension rules of December 1966 the retirement age for women who had entered the service of the Bank prior to 3 May 1977 was 55 and no reductions applied to pension accrual. Prior to his retirement the applicant applied for a preliminary ruling on how his pension would be calculated. His application was rejected by the Bank's Directorate in September 2004 as giving such a decision was not considered particularly important to the applicant. In December 2004 the applicant was granted a pension, which was reduced by 15.84% for the 231 months prior to 1 January 1994 on the ground that he had retired at the age of 56. The pension so calculated amounted to 2,529 euros per month. The applicant petitioned the Chancellor of Justice (*oikeuskansleri, justitiekanslern*) and the Parliamentary Ombudsman (*eduskunnan oikeusasiamies, riksdagens justitieombudsman*). In January and November 2007 the Deputy Chancellor of Justice and the Deputy Parliamentary Ombudsman respectively found no reason to take measures. In December 2007 the Deputy Parliamentary Ombudsman found no reason to re-examine the case. In September 2008 the applicant was informed by the Office of the Parliamentary Ombudsman that his case would not be re-examined in the absence of new facts relevant to the case.

The applicant complained that the difference in treatment in financial terms of men and women who had entered into the service of the Bank of Finland before 3 May 1977 when they applied for early retirement amounted to discrimination on grounds of sex. He had received no explanation of why European Community Law on equal pay had not been applied to his case. He also complained that the Supreme Administrative Court had not properly examined his case or reasoned its decision of 23 August 2006. He alleged that this amounted to unfairness, discrimination and partiality on the part of the court and in particular on the part of the referendary, who in her written proposal to the judges had only briefly summarised the applicant's grounds but had presented all the arguments made by the Bank. The referendary had also failed to make reference to Community Law. The applicant complained about the decisions by the Supreme Administrative Court to reject his requests for copies of the various referendaries' written proposals, copies which had been necessary to assess whether he had received a fair trial. Nor had his requests been handled with due diligence. He alleged partiality among the Supreme Administrative Court judges examining his cases on the ground that some of them had taken part in the decision-making more than once. Also the Bank's Directorate had been partial when it had taken the decision of 3 June 2005 as one of its members had drawn up the 1998 amendment. The applicant further complained that the Bank of Finland had refused to provide information about the pensions of other employees in a similar position. As a result the applicant had been unable to approach them in order to obtain from them letters of authority to lodge an application to represent them before the Court. Lastly, he complained that the Deputy Parliamentary Ombudsman and the Deputy Chancellor of Justice and their Offices had not examined his petitions in full and failed to give proper reasons.

The Court found that an appeal to the Insurance Court was an effective remedy in the present case as the Insurance Court was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success. Moreover, it was open to the applicant to initiate such proceedings. The Court finds that the applicant has not put forward any convincing arguments as to the inadequacy or ineffectiveness of the Insurance Court remedy in the particular circumstances of the case or pointed to any special circumstances absolving him from the requirement to avail himself of that remedy. The Court reiterates that in case of doubt, a remedy has to be tried. Accordingly the application was rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies. The Court considered that the Supreme Administrative Court's decision of 23 August 2006



was well drafted and provides sufficient reasons. Accordingly, this part of the application was manifestly ill-founded and rejected pursuant to Article 35 §§ 3 and 4. As to the alleged partiality of the Supreme Administrative Court, the Court noted that it was true that some of the court's judges took part in the decision-making more than once. However, the Court considered that the facts of the case did not display any partiality as the issues raised were different. This complaint was thus manifestly ill-founded and rejected pursuant to Article 35 §§ 3 and 4. As to the alleged partiality of the Bank's Directorate, the Court noted that the Bank's Directorate was not "a tribunal". Accordingly, this complaint was incompatible *ratione materiae* with the Convention. Lastly, the applicant complained that the Deputy Parliamentary Ombudsman and the Deputy Chancellor of Justice and their Offices had not examined his petitions in full and had failed to give proper reasons. The Court noted that these proceedings did not involve the determination of a civil right. Accordingly, this part of the application was incompatible *ratione materiae* with the Convention and was rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

- **Other decisions**

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Bulgaria	21 Sept. 2010	Zagorchinova (II) (no 26471/06) <a href="#">link</a>	Alleged violation of Articles 6 § 1 and Art. 1 of Prot. 1 (in particular the applicant's inability to obtain restitution of her property; delayed compensation in lieu of restitution; unfairness of proceedings)	Partly adjourned (concerning the authorities' failure to provide the applicant with compensation in lieu of the restitution), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	21 Sept. 2010	Fimianov (no 5480/02) <a href="#">link</a>	Alleged violation of Art. 2 (lack of an effective investigation into the applicant's son's death), Art. 6 (unfairness of proceedings)	Inadmissible (non-respect of the six-month requirement)
Cyprus	23 Sept. 2010	Panayi (no 46370/09) <a href="#">link</a>	Alleged violation of Art. 6 (unfairness and excessive length of proceedings), Art. 8 (lengthy and serious ongoing family dispute caused by the authorities' wrongful acts concerning the transfer and registration of properties), Art. 1 of Prot. 1 (deprivation of property which had been the subject of the proceedings), Art. 13 (lack of an effective remedy)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the convention concerning the remainder of the application)
Cyprus	23 Sept. 2010	Marangos (no 20364/07) <a href="#">link</a>	Alleged violation of Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 6 (unfairness of proceedings before the Supreme Court), Art. 14 in conjunction with Art. 6 § 1 (discriminatory provisions of the National Guard Law on obligatory military service)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings and the lack of an effective remedy), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the convention concerning the remainder of the application)
France	21 Sept. 2010	<i>Association les Témoins de Jehovah</i> (no 8916/05) <a href="#">link</a>	Alleged violation of Art. 9 in conjunction with Art. 14 (taxation of the voluntary offerings received by the association)	Admissible
France	21 Sept. 2010	Birk-Levy (no 39426/06) <a href="#">link</a>	Alleged violation of Articles 10, 11 and 14 (prohibition for the representatives of the Assembly of French Polynesia to express themselves in a language other than French)	Incompatible <i>ratione materiae</i>
France	21 Sept. 2010	Manenc (no 66686/09) <a href="#">link</a>	Alleged violation of Art. 8 (inability for unmarried partners to obtain a reversion pension, especially in the case of a homosexual relationship), Art. 14 (discrimination on grounds of sexual orientation)	Inadmissible (the Court considered that the State has acted within its national margin of appreciation with the legitimate purpose of protecting married couples)

France	21 Sept. 2010	R. T.H. (no 21526/08) <a href="#">link</a>	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Sri Lanka), Art. 13 (lack of an effective remedy)	Struck out of the list (the applicants no longer wished to pursue their application)
France	21 Sept. 2010	A. and Others (no 37388/07) <a href="#">link</a>	Idem.	Struck out of the list (it is no longer justified to continue the examination of the application as the applicants had been granted refugee status)
France	21 Sept. 2010	De Villepin (no 63249/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (infringement of the principle of equality of arms and lack of impartiality of the judges in proceedings against the applicant during the <i>Clearstream</i> case)	Inadmissible (for non-exhaustion of domestic remedies)
France	21 Sept. 2010	Loriel (no 63846/09) <a href="#">link</a>	Alleged violation of Art. 3 and Art. 1 of Prot. 1 (unlawful seizure of the applicant's properties, allegedly unrelated to the offence for which he was convicted)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention; the Court considered the interference to be proportionate)
France	21 Sept. 2010	Stratten (no 45812/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (unfairness of proceedings and lack of impartiality of the courts)	Inadmissible (for non-exhaustion of domestic remedies)
France	21 Sept. 2010	N. S. (no 35353/09) <a href="#">link</a>	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Kosovo), Art. 13 (lack of an effective remedy)	Struck out of the list (it is no longer justified to continue the examination of the application as the applicant has been granted asylum)
Malta	21 Sept. 2010	Barc Company Limited (no 38478/06) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (infringement of the right to a fair hearing in that the applicant claims he was denied a double degree of jurisdiction by means of the <i>extra legem</i> procedure adopted by the Court of Appeal)	Inadmissible as manifestly ill-founded (lack of arbitrariness in the domestic courts' decisions)
Poland	21 Sept. 2010	Klimek (II) (no 10405/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings, more than ten years)	Struck out of the list (unilateral declaration of Government)
Poland	21 Sept. 2010	Ochnio (no 11316/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings, more than five years)	Struck out of the list (friendly settlement reached)
Poland	21 Sept. 2010	Sobczyk (no 17197/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (lack of access to the Supreme Court)	Idem.
Poland	21 Sept. 2010	Ginter (no 28593/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (lack of adequate reasoning of the decision refusing a legal-aid lawyer's assistance with a view to filing a cassation appeal)	Idem.
Poland	21 Sept. 2010	Godysz (no 32588/06) <a href="#">link</a>	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 (excessive length of proceedings), Articles 5 § 4, 6 § 2 and 6 § 3 (c) and (d) (hindrance to the applicant's right to access the files of his case)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (failure to substantiate the complaint under Articles 5 § 4, 6 § 2 and 6 § 3 (c) and (d) and the for the application being substantially the same as a matter that had already been examined by the Court within the meaning of Article 35 § 2 (b) concerning claims under Art. 5 § 3)
Poland	21 Sept. 2010	Młodzieniak (no 28592/03) <a href="#">link</a>	Alleged violation of Art. 5 § 4 (lack of access to the investigation file, failure to examine the applicant's appeal "speedily"), Articles 5 § 2 and 6 § 3 (failure to inform the applicant promptly of the reasons for his arrest and lack of adequate	Partly struck out of the list (unilateral declaration of the Government concerning the lack of access to the investigation file), partly inadmissible as manifestly ill-founded (the length of the periods of examination of the

			time and facilities for the preparation of his defence, especially as a result of the denial to grant him access to his lawyers)	applicant's appeals could not be entirely attributed to the authorities, concerning the alleged failure to examine the applicant's appeal "speedily"), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Romania	28 Sept. 2010	E.M.B. (no 4488/03) <a href="#">link</a>	Alleged violation of Art. 5 §§ 1, 3 and 4 (unlawfulness and excessive length of detention, unlawful arrest warrant), Art. 6 §§ 1 and 3 (a)-(c) (lack of impartiality of the domestic courts, failure to inform the applicant of the charges against her, her lawyers were prevented from effectively representing her interests), Art. 6 § 2 (infringement of the principle of presumption of innocence), Art. 6 § 1 (excessive length of proceedings), Art. 3 (psychological distress as a result of the maintaining the arrest warrant in force), Art. 8 (the applicant prevented from returning to her home country as a result of the maintaining the arrest warrant), Art. 14 in conjunction with Art. 1 of Prot. 12 (labelling the applicant as a fugitive and discriminatory treatment during the proceedings), Art. 1 of Prot. 4 (non-execution of a contractual obligation), Articles 2 and 3 of Prot. 4 (the applicant's inability to leave her current host country (a non-signatory State) to return to her home country because of the arrest warrant in her name)	Partly adjourned (concerning claims under Art. 6 § 2), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 6 §§ 1 and 3), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Romania	21 Sept. 2010	Rus (no 21416/05) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (unfairness of the hearing in respect of the determination of the applicant's status of politically persecuted person following his imprisonment during the time of the communist regime for his refusal as a Jehovah's Witness to be recruited for mandatory military service), Art. 1 of Prot. 1 (lack of compensation), Art. 14 in conjunction with Art. 6 and Art. 1 of Prot. 1 (the same courts adopted opposite decisions in identical cases concerning Jehovah's Witnesses), Art. 9 (the applicant's forcible recruitment to the army during the communist regime despite his religious views)	Struck out of the list (the applicant no longer wished to pursue his application)
Romania	21 Sept. 2010	Ionescu and Negoită (no 22738/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (excessive length and outcome of heritage proceedings)	Struck out of the list (friendly settlement reached)
Russia	23 Sept. 2010	Nagovitsyn and Nalgiyev (no 27451/09; 60650/09) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (State's failure to comply with binding and enforceable judgments in the applicants' favour)	Inadmissible (for non-exhaustion of domestic remedies)
Russia	23 Sept. 2010	Fakhretdinov and Others (no 26716/09; 67576/09; 7698/10) <a href="#">link</a>	Alleged violation of Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 6 (unfairness of proceedings concerning the first applicant)	Idem.
Russia	23	Shevchenko	The applicants complained about	Partly struck out of the list

	Sept. 2010	and others (no 41446/02; 24381/03 etc.) <a href="#">link</a>	the delayed enforcement of judgments in their favour and in certain cases of the numerous faults during judicial or enforcement proceedings	(unilateral declaration of the Government concerning the delayed enforcement of the judgments), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Russia	23 Sept. 2010	Kalinina and Others (no 43727/07) <a href="#">link</a>	The applicants complained about the delayed enforcement of judgments in their favour and the lack of an effective remedy	Partly struck out of the list (25 of the 29 applicants no longer wished to pursue their application), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Russia	23 Sept. 2010	Salimov (no 35776/05) <a href="#">link</a>	Alleged violation of Articles 3, 5, 6, 7 and 8 (ill-treatment during arrest, conditions of detention in facility no. 1, unlawful detention, excessive length and unfairness of criminal proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Russia	23 Sept. 2010	Zagorulkin (no 43721/07) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (delayed execution of judgments in the applicant's favour)	Struck out of the list (the applicant has died and no member of his family or heir has expressed a wish to continue the proceedings before the Court)
Russia	23 Sept. 2010	Tsvetkov and Others (no 9018/04) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (non-execution of a judgment in the applicants' favour)	Struck out of the list (Mr Khlebnikov has died and no member of his family or heir has expressed a wish to continue the proceedings before the Court and Mr Tsvetkov and Mr Smirnov no longer wished to pursue their application)
Russia	23 Sept. 2010	Grishunkin (no 11138/05) <a href="#">link</a>	Alleged violation of Art. 3 (conditions of detention in the IVS of Mytishchi, Moscow Region and detention facility IZ-50/2 in Volokolamsk), Art. 5 § 1 (c) (the applicant's detention in a temporary detention facility for more than the maximum duration permitted by law), Art. 13 (lack of an effective remedy)	Struck out of the list (applicant no longer wished to pursue his application)
Slovakia and Germany	28 Sept. 2010	Herold Tele Media, S.R.O., Matušik and Schuster (no 57238/00) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 1 of Prot. 1 (deprivation of property), Art. 14 (preferential treatment to another company), Art. 17 (the State's actions were allegedly committed in bad faith), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the alleged breach, by the Slovakian authorities, of Art. 6 § 1 and Art. 1 of Prot. 1, both taken alone and in conjunction with Article 13), partly inadmissible for non-exhaustion of domestic remedies (concerning the claims in respect to Germany), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovenia	21 Sept. 2010	Ramšak (no 12459/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (the applicant no longer wished to pursue her application)
Slovenia	21 Sept. 2010	Vlahovič and Others (no 33727/03; 30922/06 etc.) <a href="#">link</a>	Idem.	Struck out of the list (the matter has been resolved at the domestic level and the applicants no longer wished to pursue their application)
the Czech Republic	28 Sept. 2010	Rysl (no 19804/07) <a href="#">link</a>	Alleged violation of Art. 6 (unfairness of proceedings, hindrance on the applicant's right to a constitutional appeal)	Partly adjourned (concerning the hindrance on the applicant's right to a constitutional appeal), partly inadmissible as manifestly ill-

				founded (concerning the remainder of the application)
the Czech Republic	21 Sept. 2010	Janyr (no 12579/06) <a href="#">link</a>	Alleged violation of Art. 6 §§ 1 and 2 (unfairness and excessive length of proceedings, hindrance on the applicant's right to a constitutional appeal), Art. 6 § 3 d) (the applicant's inability to question witnesses), Art. 7 (broad interpretation of the Penal Code), Art. 2 of Prot. 7 (the Appeal Court's judgment was based on new facts)	Idem.
the Czech Republic	21 Sept. 2010	Zahradil (no 1536/10) <a href="#">link</a>	Alleged violation of Art. 6 §§ 1 and 2 (unfairness of proceedings, hindrance on the applicant's right to a constitutional appeal)	Idem.
the Czech Republic	21 Sept. 2010	Lučivňák (no 19007/10) <a href="#">link</a>	Alleged violation of Art. 6 (unfairness and excessive length of proceedings, hindrance on the applicant's right to a constitutional appeal)	Idem.
the Czech Republic	21 Sept. 2010	Záleský (no 34812/10) <a href="#">link</a>	Alleged violation of Art. 6 (unfairness of proceedings, hindrance on the applicant's right to a constitutional appeal) and Art. 13 (lack of an effective remedy)	Idem.
the Czech Republic	21 Sept. 2010	Lesní společnost Přimda, A.S. (no 11997/05) <a href="#">link</a>	Alleged violation of Art. 1 of Prot. 1 (deprivation of property without a fair balance between the public interest and the protection of fundamental rights having been struck)	Inadmissible (for non-exhaustion of domestic remedies)
Turkey	21 Sept. 2010	Karataş and Others (no 46820/09) <a href="#">link</a>	Alleged violation of Art. 2 (killing of Bülent Karataş and wounding of Rıza Çiçek, the applicants' relatives), Art. 3 (Rıza Celik's pre-trial detention for seven months allegedly amounted to ill-treatment as he had been shot in the chest shortly before the detention), Articles 6 and 13 (lack of an effective investigation into the killing and wounding of the applicants' relatives)	Partly adjourned (concerning the death of Bülent Karataş, the wounding of Rıza Çiçek and the alleged ineffectiveness of the investigation), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Turkey	21 Sept. 2010	Aydin (no 25513/07) <a href="#">link</a>	The applicants complained about the excessive length of civil proceedings (almost ten years)	Struck out of the list (friendly settlement reached)
Turkey	21 Sept. 2010	Dolutaş (no 17914/09) <a href="#">link</a>	Alleged violation of Articles 3 and 13 (ill-treatment by police officers, lack of an effective investigation, lack of an effective remedy), Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 6 § 1 (unfairness of proceedings)	Partly adjourned (concerning the length of criminal proceedings and the lack of an effective remedy), partly inadmissible for lack of an arguable claim (concerning claims under Articles 3 and 13), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Turkey	21 Sept. 2010	Kayhan (no 43877/06) <a href="#">link</a>	Alleged violation of Art. 6 §§ 1 and 3 d) (unfairness of criminal proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	21 Sept. 2010	Kuru (no 33566/08) <a href="#">link</a>	Alleged violation of Articles 6 and 8 (excessive length of compensation proceedings and interference with the applicant's right to respect for his private life on account of false information being published in several newspapers about the applicant's alleged involvement in a blackmail)	Idem.
Turkey	21 Sept. 2010	Gerçek and Others (no 4122/07)	Alleged violation of Art. 5 § 1 (unlawfulness of detention), Art. 5 § 4 (the applicants' inability to	Partly adjourned (concerning the claims under Art. 5 § 4), partly inadmissible for non-exhaustion of

		<a href="#">link</a>	challenge their detention), Art. 5 § 3 (excessive length of detention), Art. 6 (hindrance to the applicants' right to access the necessary documents to prepare their defence)	domestic remedies (concerning the unfairness of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Turkey	21 Sept. 2010	Uğur and Others (no 49651/06; 6840/08; 8076/08) <a href="#">link</a>	Alleged violation of Art. 5 § 1 (unlawful detention), Art. 5 §§ 3 and 4 (excessive length of detention and lack of an effective remedy to challenge the lawfulness of the detention), Art. 5 § 1 (lack of adequate compensation in respect of detention), Art. 6 (unfairness and excessive length of proceedings, lack of legal assistance, infringement of the right to be presumed innocent), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning claims under Article 5 §§ 1, 3, 4 and 5), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Turkey	28 Sept. 2010	Demir (no 20653/07) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of civil proceedings, almost twenty years)	Struck out of the list (friendly settlement reached)
Ukraine	21 Sept. 2010	Pichkur (no 10441/06) <a href="#">link</a>	Alleged violation of Articles 6 § 1, 13, 14 and 53, Art. 1 of Prot. 1 and Art. 1 of Prot. 12 (in particular deprivation of pension on the ground of the applicant's place of residence and inability to obtain judicial redress in Ukraine, unfairness and excessive length of proceedings)	Partly adjourned (concerning the deprivation of the retirement pension in a discriminatory manner), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	21 Sept. 2010	Yaremenko (ii) (no 66338/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (unfairness of proceedings and domestic authorities' failure to execute the judgment of the Court in his previous case), Art. 6 § 3 (a-d) (in particular the re-trial proceedings conducted in the applicant's absence, lack of adequate facilities to prepare the defence)	Partly adjourned (concerning claims under Article 6 §§ 1 and 3 (a-d)), partly incompatible <i>ratione materiae</i> (the Court reiterated that it had no jurisdiction to examine complaints as to whether a High Contracting Party has complied with its obligations under a judgment given by it, the supervision of the execution of judgments being entrusted to the Committee of Ministers by virtue of Article 46 § 2 of the Convention concerning the domestic authorities' failure to execute the Court's judgment)

### C. The communicated cases

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

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

- on 4 October 2010 : [link](#)
- on 11 October 2010 : [link](#)

The list itself contains links to the statement of facts and the questions to the parties. This is a tool for NHRSS to be aware of issues involving their countries but also of other issues brought before the Court which may reveal structural problems. Below you will find a list of cases of particular interest identified by the NHRS Unit.

NB. The statements of facts and complaints have been prepared by the Registry (solely in one of the official languages) on the basis of the applicant's submissions. The Court cannot be held responsible for the veracity of the information contained therein.

Please note that the Irish Human Rights Commission (IHRC) issues a monthly table on priority cases before the European Court of Human Rights with a focus on asylum/ immigration, data protection, anti-terrorism/ rule of law and disability cases for the attention of the European Group of NHRIs with a view to suggesting possible amicus curiae cases to the members of the Group. Des Hogan from the IHRC can provide you with these tables ([dhogan@ihrc.ie](mailto:dhogan@ihrc.ie)).

**Communicated cases published on 4 October 2010 on the Court's Website and selected by the NHRS Unit**

*The batch of 4 October 2010 concerns the following States (some cases are however not selected in the table below): Armenia, Bulgaria, Croatia, Estonia, France, Hungary, Italy, Malta, Poland, Romania, Russia, Serbia, Spain, Switzerland, the Czech Republic, the Netherlands, the United Kingdom and Turkey.*

<u>State</u>	<u>Date of Decision to communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Bulgaria	15 Sept. 2010	Madah and Others no 45237/08	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Iran – Alleged violation of Art. 8 – Interference with the applicant's right to respect for family life on account of the order for the first applicant's expulsion – Alleged violation of Art. 13 in conjunction with Art. 8 – Lack of an effective remedy
Croatia	14 Sept. 2010	Mileusnić and Mileusnić Espenheim no 66953/09	Alleged violation of Art. 2 – Do the facts of the present case pertinent to the issues raised under Article 2 of the Convention fall within the Court's jurisdiction <i>ratione temporis</i> ? In particular, was there a "genuine link" between the death of the first applicant's wife and daughter (the second applicant's mother and sister) and the entry into force of the Convention in respect of Croatia? Have a significant proportion of the procedural steps required under Article 2 been, or ought they to have been, carried out after the critical date? – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Croatia	14 Sept. 2010	Srbić no. 4464/09	Alleged violation of Articles 3 and 8 – Conditions of detention in Zagreb prison – Alleged violation of Art. 3 – Ill-treatment by the prison personnel – Alleged violation of Art. 8 – Monitoring of the applicant's correspondence – Alleged violation of Art. 9 – The applicant's inability to keep religious objects in his cell – Alleged violation of Art. 1 of Prot. 1 – The applicant's personal belongings, such as several items of golden jewellery had been taken from him upon arrival at Zagreb Prison and that items allegedly had not been registered in the prison records – Alleged violation of Art. 34 – Request by prison authorities that the applicant hand over all letters addressed to the Court opened
France	15 Sept. 2010	Harroudj no 43631/09	Alleged violation of Art. 8 – The applicant's, a French national, inability to adopt an Algerian child she had taken in by way of the "kafala" – Alleged violation of Art. 14 – Discrimination on grounds of nationality, as the child's national law prohibited adoption
Italy	16 Sept. 2010	Oribabor no 34724/10	Alleged violation of Art. 3 – If expelled to Nigeria, risk of being subjected to ill-treatment on account of the absence of the necessary medical care for the applicant's sickness (HIV positive)
Romania	16 Sept. 2010	Zarafim no 24082/03	Alleged violation of Art. 3 – Conditions of detention and a lack of adequate medical treatment in the Iași, Jilava and Craiova prisons – Alleged violation of Art. 34 – The refusal of both the Iași and Jilava prison authorities to grant the applicant's requests for photocopies of documents from his prison file and for envelopes for correspondence with the Court
Russia	17 Sept. 2010	Panarin no 43472/06	Alleged violation of Art. 11 – Interference with the applicant's right to freedom of association on account of the Ministry of Justice's refusal to register the Russian National and Cultural Autonomy of Zlatoust – Alleged violation of Art. 14 – What sort of specific benefits or preferences did the law attach to the status of a "national and cultural autonomy"? Was it possible for the applicant to defend the interests of the Russian community of Zlatoust by registering another public association, not in the form of a "national and cultural autonomy"? Was it possible for Russians to form a Russian national and cultural autonomy in the regions where Russians represent an ethnic minority? Was the distinction between the majority ethnic group and the minority ethnic group, applied for the purpose of refusing the registration of the Russian national and cultural

			autonomy of Zlatoust, compatible with the requirements of Article 14?
Russia	14 Sept. 2010	Ashirov and International Memorial no 25246/07	Alleged violation of Art. 10 – The warnings issued against the applicants for writing specialist opinions on terrorist organisations and the requirement to remove the specialist opinion from the website allegedly interfered with their right to freedom of expression
Russia	14 Sept. 2010	Zakharin and Others no 22458/04	Alleged violations of Art. 3 (substantive and procedural) – (i) Ill-treatment in police custody – (ii) Lack of an effective remedy – Alleged violations of Art. 2 (substantive and procedural) – (i) The fourth applicant's husband's death in detention – (ii) Lack of an effective investigation – Alleged violation of Art. 13 in conjunction with Articles 2 and 3 – Lack of an effective remedy
Turkey	15 Sept. 2010	Keskin, Karakiş and Korkmaz nos 17906/09 and 17912/09	Alleged violations of Articles 3 and 11 – Use of excessive police force during the dispersal of a peaceful demonstration – Ill-treatment by police officers during the arrest
Turkey	15 Sept. 2010	Sürer no 20184/06	Alleged violations of Art. 2 – Death of the applicants' son during military service – Lack of adequate medical examination of the applicants' son's state of health
Turkey	15 Sept. 2010	Taşarsu no 14958/07	Alleged violations of Art. 3 – Ill-treatment in police custody – Alleged violation of Art. 13 – Lack of an effective remedy

**Communicated cases published on 11 October 2010 on the Court's Website and selected by the NHRS Unit**

*The batch of 11 October 2010 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Bosnia and Herzegovina, Bulgaria, Denmark, France, Germany, Italy, Lithuania, Malta, Poland, Romania, Russia, Serbia, Spain, the United Kingdom, Turkey and Ukraine.*

<b>State</b>	<b>Date of Decision to communicate</b>	<b>Case Title</b>	<b>Key Words of questions submitted to the parties</b>
Azerbaijan	21 Sept. 2010	Yusubov no 49243/10	Alleged violation of Art. 3 – Lack of adequate medical care – Is the detention regime imposed on the applicant compatible with his health?
Bulgaria	23 Sept. 2010	Auad no 46390/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment or death if expelled to Lebanon – Alleged violation of Art. 13 in conjunction with Art. 3 – Lack of an effective remedy – In particular, did the Supreme Administrative Court scrutinise whether substantial grounds for his fearing a real risk of ill-treatment existed and examine his request for suspension of the enforcement of the expulsion order? – Alleged violation of Art. 5 § 1 – Unlawfulness of detention
Denmark	20 Sept. 2010	F.A. no 44021/10	Alleged violation of Art. 3 – If expelled to Greece, risk of being deported to Sudan, where the applicant risks being subjected to ill-treatment – Alleged violation of Art. 13 – Lack of an effective remedy
Italy	20 Sept. 2010	Scoppola no 65050/09	Alleged violation of Art. 3 – Is the applicant's detention in Parma prison compatible with his health? – Question as to the reasons why the applicant hadn't been transferred in a specialised medical centre as recommended by the Bologna Court?
Romania	21 Sept. 2010	Roşioru no 37554/06	Alleged violations of Art. 3 (substantive and procedural) – (i) Ill-treatment by police officers – (ii) Lack of an effective investigation
Serbia	21 Sept. 2010	Milisavljević no 50123/06	Alleged violation of Art. 10 – The applicant's criminal conviction for publishing an article insulting the founder of a non-governmental organisation aimed at promoting human rights for minorities
Turkey	20 Sept. 2010	Karakuş and Özer no 64406/09	Alleged violation of Articles 3 and 8 – Alleged ill-treatment on account of the applicants' two children's killing, the fact that they were prevented from burying them themselves in a religious ceremony and in a cemetery of their own choosing
Ukraine	20 Sept. 2010	Tayfur no 36171/04	Alleged violations of Art. 3 (substantive and procedural) – (i) Ill-treatment by officers from the Department for Combating Organised Crime – (ii) Lack of an effective investigation – Conditions of detention in the Simferopol ITT – Lack of adequate medical assistance – Alleged violation of Art. 9 – Hindrance to the applicant's right to practice his religion in the Simferopol ITT – Alleged violation of Art. 13 in conjunction with Articles 3 and 9 – Lack of an effective remedy



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

### **Elections of new judges (28.09.2010)**

Two new judges have been elected to the Court in respect of Estonia and Greece respectively. Julia Laffranque and Linos-Alexander Sicilianos were elected on Tuesday by the Parliamentary Assembly of the Council of Europe for a nine-year term of office. [Press release](#)

### **Launch of a special website for the 60th anniversary of the Convention (08.10.2010)**

To mark the 60th anniversary of the European Convention on Human Rights, the Council of Europe is launching a website dedicated to this key instrument drawn up by the organisation. The website offers regularly updated content, available in French and in English, and will remain operational after the end of 2010 - the anniversary year. [Anniversary site](#)

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

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

### **Case-law Factsheets (30.09.2010)**

The Court's Registry is launching a series of thematic information sheets on the Court's case-law. They deal with various themes such as the situation of the Roma, the rights of homosexuals, prison conditions and environmental rights. They include both decided cases and pending applications. The information sheets will be revised so as to keep up with case-law developments and more will be added. This initiative is part of the implementation of the action plan adopted at the Interlaken Conference. [Press release](#), [Factsheets](#)

## Part II: The execution of the judgments of the Court

### A. New information

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

### B. General and consolidated information

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights:

[http://www.coe.int/t/dghl/monitoring/execution/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/default_en.asp)

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

[http://www.coe.int/t/e/human\\_rights/execution/02\\_Documents/PPIndex.asp#TopOfPage](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)

#### **Presentation of the European Social Charter at the European Youth Centre in Budapest (30.09.2010)**

In the context of a project organised by the Directorate of Youth and Sport on the theme of access to social rights for young people from disadvantaged neighbourhoods, Mr Régis BRILLAT, Head of the Department of the European Social Charter presented the Social Charter and underlined its importance in this context. [Draft programme](#) ; [More information](#)

**The European Social Charter and Roma Rights:** 10 collective complaints concern the rights of Roma. Consult the latest thematic file on Roma rights and the corresponding summaries of the major decisions of the European Committee of Social rights [on line](#).

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

[http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable\\_en.asp](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 [Bulgaria](#) (30.09.2010)**

The CPT has published on 30 September the [report](#) on its ad hoc visit to Bulgaria in December 2008 together with the [response](#) of the Bulgarian Government. Both documents have been made public at the request of the Bulgarian authorities. The main objective of the visit was to review progress as regards the implementation of previous CPT recommendations concerning conditions of detention in investigation detention facilities (IDFs) and prisons. The CPT also visited for the first time the Special Home for temporary placement of foreign nationals in Busmantsi. At the Home in Busmantsi, the CPT's delegation received several allegations of physical ill-treatment of detained foreign nationals by police staff. The ill-treatment alleged was said to have taken place in the establishment's solitary confinement unit. In this context, it appeared that staff had a wide margin of discretion to impose placement in a solitary confinement cell. Material conditions at the Busmantsi Home were an improvement on those observed by the CPT in the past at the facility in Drouzhba (Sofia) previously used for the temporary accommodation of foreign nationals. Detainees in the two investigation detention facilities visited made no complaints about their treatment by custodial staff. As regards conditions of detention in IDF's, the CPT has witnessed certain progress over the years; nevertheless, the pace of improvement has been slow. The conditions observed during the 2008 visit at the IDFs in Pernik and Slivnitsa were indicative of failure to implement the Committee's long-standing recommendations. The CPT has called upon the Bulgarian authorities to intensify their efforts to bring investigation detention facilities up to the required standards. During the follow-up visit to Sofia Prison, low staffing levels remained an issue of serious concern. The CPT has called upon the Bulgarian authorities to improve prison staffing levels as a priority and to develop a recruitment strategy based on proper funding. In their response, the authorities make reference to various measures being taken to improve the situation in the light of the recommendations made by the CPT.

#### **Council of Europe anti-torture Committee visits ["the former Yugoslav Republic of Macedonia"](#) (05.10.2010)**

A delegation of the CPT carried out a visit to "the former Yugoslav Republic of Macedonia" from 21 September to 1 October 2010. It was the Committee's ninth visit to this country. The CPT's delegation focused on the treatment and conditions of detention of sentenced and remand prisoners, evaluating the progress made since its previous visits. A further area of interest was the treatment of social care home residents and of patients in the country's three psychiatric hospitals. The delegation also considered the way in which persons are treated when they are deprived of their liberty by law

enforcement agencies and the measures taken to investigate allegations of ill-treatment by the police. In the course of the visit, the CPT's delegation held meetings with Gordana JANKULOVSKA, Minister of the Interior, Mihajlo MANEVSKI, Minister of Justice, Bujar OSMANI, Minister of Health and Dzelal BAJRAMI, Minister of Labour and Social Policy. It also met Lidija GAVRILOSKA, Director of the Directorate for the Execution of Sanctions, as well as other senior officials from relevant Ministries. In addition, discussions were held with the Ombudsman, Ixhet MEMETI, Deputy Ombudsman, Nevenka KRUSHAROVSKA, and representatives from civil society. At the end of the visit the delegation presented its preliminary conclusions to the national authorities.

### **C. European Commission against Racism and Intolerance (ECRI)**

— \*

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

— \*

### **E. Group of States against Corruption (GRECO)**

#### **Exchange of views with Global Organization of Parliamentarians against Corruption (30.09.2010)**

In the context of the preparation of its Fourth Evaluation Round, GRECO held an exchange of views on Corruption Prevention in Parliamentary Assemblies with the participation of Mr Ghassan E. MOUKHEIBER, Global Organization of Parliamentarians against Corruption (GOPAC) and Chair of GOPAC's Global Task Force on Parliamentary Ethics, as keynote speaker. Possible ways for intensifying cooperation with GOPAC will be explored, notably in the framework of the preparatory work for GRECO's Fourth Evaluation Round.

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

#### **Outcome of the 33rd Plenary Meeting (04.10.2010)**

MONEYVAL, at its 33rd plenary meeting, achieved several significant results : discussed and adopted the mutual evaluation report on the 4th assessment visit of Hungary (see [Executive summary](#)); examined and adopted the first progress reports submitted by Armenia and Ukraine as well as the second progress report submitted by Poland (see [report / annexes](#)); examined the state of compliance on all non compliant and partially compliant ratings in the 3rd round in respect of 6 countries; adopted the report on typologies elaborated in the framework of the typologies project on Money laundering through private pensions funds and the insurance sector; endorsed the key [Principles for Mutual Evaluations and Assessments](#) prepared by the FATF in collaboration with FATF style regional bodies, the IMF and World Bank. At this Plenary, MONEYVAL elected a bureau member, Mrs Izabela Fendekova (Slovak Republic) for a mandate until December 2011. The publication of these reports will take place shortly. The next plenary meeting is scheduled from 6-10 December 2010.

#### **On-site evaluation visit to Slovakia (04-09.10.2010)**

A MONEYVAL team of evaluators visited Slovakia from 4 to 9 October 2010 under the fourth evaluation round. The visit was coordinated by the National Bank of Slovakia (Národná Banka Slovenska) and the Slovak Financial Intelligence Unit (Finančná Spravodajská Jednotka). The team met with Police President Mr Jaroslav Spisiak as well as representatives from 23 organisations and agencies including law enforcement agencies, government departments, financial services supervisors, associations and the private sector. The meetings were held in Bratislava. A key findings document was discussed with the Slovak authorities and left with them at the conclusion of the mission. The draft report will now be prepared for review and adoption by MONEYVAL at its 36th Plenary meeting (September 2011).

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

— \*

---

\* No work deemed relevant for the NHRSSs for the period under observation

## Part IV: The inter-governmental work

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

**27 September 2010:** France ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#)).

**29 September 2010:** Armenia signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#)).

**30 September 2010:** Ukraine ratified the Convention on the Establishment of a Scheme of Registration of Wills ([ETS No. 077](#)), 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](#)).

**1 October 2010:** Montenegro ratified the European Convention on the Exercise of Children's Rights ([ETS No. 160](#)), and the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority ([CETS No. 207](#)).

**5 October 2010:** Latvia ratified the European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes ([ETS No. 123](#)).

**6 October 2010:** Italy ratified the Convention on the Recognition of Qualifications concerning Higher Education in the European Region ([ETS No. 165](#)).

**8 October 2010:** Belgium denounced the European Convention on the Protection of the Archaeological Heritage ([ETS No. 066](#)), and ratified the European Convention on the Protection of the Archaeological Heritage (Revised) ([ETS No. 143](#)).

### B. Recommendations and Resolutions adopted by the Committee of Ministers (Adopted by the Committee of Ministers on 29 September 2010 at the 1094th meeting of the Ministers' Deputies)

[CM/Res\(2010\)10E / 29 September 2010](#) Resolution on the Partial Agreement on the Council of Europe Development Bank – Adjustment of the 2010 Budget

[CM/ResCMN\(2010\)10E / 29 September 2010](#) Framework Convention for the Protection of National Minorities – Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Slovenia

[CM/ResCMN\(2010\)11E / 29 September 2010](#) Framework Convention for the Protection of National Minorities – Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Finland

[CM/ResCSS\(2010\)1E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by Belgium (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)2E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by Cyprus (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)3E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by the Czech Republic (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)4E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by Denmark (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)5E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by Estonia (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)6E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by France (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)7E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by Germany (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)8E / 29 September 2010](#) Resolution on the application of the European Code of Social Security and its Protocol by Greece (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)9E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Ireland (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)10E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Italy (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)11E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Luxembourg (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)12E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Norway (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)13E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Portugal (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)14E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Slovenia (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)15E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Spain (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)16E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Sweden (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)17E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Switzerland (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)18E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by Turkey (Period from 1 July 2008 to 30 June 2009)

[CM/ResCSS\(2010\)19E / 29 September 2010](#) Resolution on the application of the European Code of Social Security by the United Kingdom (Period from 1 July 2008 to 30 June 2009)

[CM/Rec\(2010\)11E / 29 September 2010](#) Recommendation of the Committee of Ministers to member States on the impact of genetics on the organisation of health care services and training of health professionals

## **C. Other news of the Committee of Ministers**

### **Conference on the principle of subsidiarity (01.10.2010)**

Opening the conference organised on this subject in Skopje on 1-2 October, Minister of Justice Mihajlo Manevski said, on behalf of the Chairmanship of the Committee of Ministers: "We hope that this conference, organised by the Macedonian Chairmanship, will identify tangible ways and means of recognising the interpretative authority of judgments against other States, improving the effectiveness of domestic remedies and ensuring swift and full execution of the Court's judgments."

### **Council of Europe commits to defending network neutrality on Internet (06.10.2010)**

Users should have the greatest possible access to Internet-based content, applications and services of their choice, whether or not they are offered free of charge, using suitable devices of their choice, is written in the Declaration on network neutrality, adopted by the Committee of Ministers.

### **Antonio Miloshoski: we should ensure social integration of Roma (04.10.2010)**

"Our Chairmanship fully supports the Secretary General's decision to call a high-level meeting to put in place a European strategy that would lead to lasting, tangible measures to ensure the social integration of the Roma", said the Chairman of the Committee of Ministers on 4 October. "For all forces will need to be mobilised if this initiative, which is a challenge for Europe as a whole, and the Council of Europe in particular, is to succeed." [Video of the speech](#)

## Part V: The parliamentary work

### A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe adopted by the Assembly at its 36th Sitting on 5-8 October 2010

Resolution 1756: [The need to avoid duplication of the work of the Council of Europe by the European Union Agency for Fundamental Rights](#)

Recommendation 1935: [The need to avoid duplication of the work of the Council of Europe by the European Union Agency for Fundamental Rights](#)

Recommendation 1934: [Child abuse in institutions: ensure full protection of the victims](#)

Resolution 1755: [The functioning of democratic institutions in Ukraine](#)

Resolution 1754: [Fight against extremism: achievements, deficiencies and failures](#)

Recommendation 1933: [Fight against extremism: achievements, deficiencies and failures](#)

Resolution 1759: [The activities of the European Bank for Reconstruction and Development \(EBRD\) in 2009: facilitating economic integration in Europe](#)

Recommendation 1937: [The strategy, governance and functioning of the Council of Europe Development Bank](#)

Resolution 1758: [The activities of the Organisation for Economic Co-operation and Development \(OECD\) in 2009-2010](#)

Resolution 1757: [Human rights and business](#)

Recommendation 1936: [Human rights and business](#)

Resolution 1762: [Children without parental care: urgent need for action](#)

Recommendation 1939: [Children without parental care: urgent need for action](#)

Resolution 1761: [Guaranteeing the right to education for children with illnesses or disabilities](#)

Recommendation 1938: [Guaranteeing the right to education for children with illnesses or disabilities](#)

Resolution 1763: [The right to conscientious objection in lawful medical care](#)

Resolution 1760: [Recent rise in national security discourse in Europe: the case of Roma](#)

Resolution 1766: [Fostering the socio-economic potential of the Baltic Sea region](#)

Resolution 1765: [Gender-related claims for asylum](#)

Recommendation 1940: [Gender-related claims for asylum](#)

Resolution 1764: [National procedures for the selection of candidates for the European Court of Human Rights](#)

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

#### ➤ *Countries*

**Elections in Bosnia and Herzegovina generally in line with international standards, but key aspects need action (04.10.2010)**

The 3 October general elections in Bosnia and Herzegovina represented further progress and, except for legal restrictions of voting rights, were conducted generally in line with OSCE and Council of Europe commitments, international observers concluded in a preliminary statement issued on 4 October. They stressed that certain key areas require action. "We have seen yet another demonstration that the electoral process in Bosnia and Herzegovina has stabilized, which is a further promising step towards full integration into the European structures. I congratulate the people of the country and also the election administration for the conduct of these elections. I hope we will soon see

the new parliament address the remaining issues,” said Special Co-ordinator Roberto Battelli who leads the short-term OSCE observer mission and heads the OSCE PA delegation. The elections were once again conducted with ethnicity and residence-based limitations to active and passive suffrage rights imposed by the Dayton Accords. As such, the extant legal framework continues to violate Protocol No. 12 of the European Convention on Human Rights,” said Tiny Kox (Netherlands, UEL), Head of the delegation of PACE. “These elections consolidated the progress achieved by Bosnia and Herzegovina since 2006. We were impressed with the overwhelmingly orderly process conducted in polling stations across the country on election day. Shortcomings remain, particularly with regard to procedural problems. Still, the people of this country won these elections. They have demonstrated their strong commitment to democracy,” said Wladyslaw Sidorowicz, Head of the delegation of the NATO Parliamentary Assembly. The election campaign was generally calm, although occasionally marked by nationalist rhetoric and inflammatory statements. The variety of views presented in the media provided voters with the opportunity to make informed choices, although populist rhetoric often detracted from issues of substance. While contestants addressed economic, social and European integration topics, constitutional issues and underlying ethnic divisions remained omnipresent.

#### **PACE elects its Vice-President with respect to the Czech Republic (04.10.2010)**

PACE elected Václav Kubata (Czech Republic, EPP/CD) Vice-President of the Assembly with respect to the Czech Republic.

#### **PACE elects Julia Laffranque judge of the ECHR with respect to Estonia (05.10.2010)**

PACE elected Julia Laffranque as judge to the European Court of Human Rights with respect to Estonia. Ms Laffranque, having obtained an absolute majority of votes cast, is elected a judge of the Court for a term of office of 9 years starting on 1 January 2011 and in any event not later than 3 months as from the date of the election. Judges are elected by PACE from a list of three candidates nominated by each State which has ratified the European Convention on Human Rights.

#### **PACE elects Linos-Alexander Sicilianos judge of the ECHR with respect to Greece (05.10.2010)**

PACE elected Linos-Alexander Sicilianos as judge to the European Court of Human Rights with respect to Greece. Mr Sicilianos, having obtained an absolute majority of votes cast, is elected a judge of the Court for a term of office of 9 years starting on 18 May 2011.

#### **PACE calls for process of constitutional reform in Ukraine (05.10.2010)**

PACE has warmly welcomed the political will displayed by the new authorities in Ukraine to enact ambitious reforms, but warned that they must have wide political consensus and public support to succeed. Debating a monitoring report by Renate Wohlwend (Liechtenstein, EPP/CD) and Mailis Reps (Estonia, ALDE), the parliamentarians said the recent Constitutional Court ruling in Ukraine should now prompt the Verkhovna Rada to initiate “a comprehensive constitutional reform process” to bring the country’s constitution fully into line with European standards. PACE also expressed concern at reports of undue involvement of the security services in domestic political affairs, including pressure on journalists and NGO activists, and reports that democratic freedoms and rights – such as freedom of assembly, expression and the media – have come under pressure in recent months.

#### **➤ Themes**

#### **Mevlüt Çavusoglu: Euronest Assembly and PACE must be complementary (28.09.2010)**

Referring to the European parliament’s decision to establish a parliamentary dimension of the Eastern Partnership – Euronest Parliamentary Assembly, PACE President underlined the importance that both structures act “in complementary, rather than overlapping way”. He said he had stressed to the President of the EP that PACE should be able to participate in the work of the Euronest Assembly from the very beginning and with a formal status. Mevlüt Çavusoglu was addressing the Committee on European Affairs of the French National Assembly, in the framework of an official visit to Paris.

#### **PACE President: ‘Cultural heritage is a mirror that reflects the best of us all’ (01.10.2010)**

“Cultural heritage is a mirror that reflects the best of us all as members of our societies and as European citizens. It brings societies ever closer one to another, by uniting them in diversities,



strengthening cultural ties, mutual respect and understanding”, said PACE President Mevlüt Çavusoglu on 1 October addressing the 3RD European Heritage Forum, organised in Istanbul in the context of the 25th anniversary of European Heritage Days. [Speech by Mevlüt Cavusoglu at the opening of the 3rd European heritage Forum - \(Aya Irini, Istanbul, 1 October 2010\)](#)

### **Applying all Strasbourg case-law at national level could ‘save the Court from drowning’ (01.10.2010)**

National legislators and courts across Europe must better take into account judgments of the European Court of Human Rights even when they concern violations that have occurred in other countries, the Chair of PACE’s Committee on Legal Affairs and Human Rights said on 1 October. Speaking at a conference on the principle of subsidiarity in Skopje, Christos Pourgourides (Cyprus, EPP/CD) said this principle could be “the key to saving the Strasbourg Court from drowning in large numbers of repetitive cases”. He gave the example of a Court ruling against Belgium in 1979 that children born out of wedlock should not face discrimination, pointing out that France changed its law only after the Court made a similar ruling against it in 2000: “Twenty years lost for the victims of such discrimination, and many years of unnecessary litigation!” “Human rights violations must first and foremost be avoided,” Mr Pourgourides said, stressing that the judges in Strasbourg should step in only when remedies did not function at national level. For the principle of subsidiarity to work, national courts must be made more aware of the Court’s judgments concerning other countries, he pointed out. But the Court itself would also have to exercise “self-restraint” by respecting States Parties’ “margin of appreciation” concerning fundamental moral issues or deep-rooted national traditions. [Mr Pourgourides’ speech](#)

### **Guido Westerwelle addresses rise of ‘nationalist’ politics (04.10.2010)**

In his address before the Parliamentary Assembly on 4 October, Guido Westerwelle, Deputy Federal Chancellor and Federal Minister for Foreign Affairs of Germany, warned of an increasing nationalism in politics. “It may get you applause back home”, he said, but it is “irresponsible”. [Video of the speech](#)

### **PACE President expresses concern at rise of populist and extremist groupings in national parliaments (04.10.2010)**

Speaking at a press conference on the occasion of the Autumn session of the Parliamentary Assembly, PACE President Mevlüt Çavusoglu expressed his concern at the recent rise of populist and extremist candidates and groupings, obtaining significant results in many countries at regional and national elections. “They exploit the resentments stirred by economic decline and social crisis as they are elected on an ‘anti’-ticket - anti-immigration, anti-Muslim, anti-Europe. We have to carefully monitor these movements as they have become a parliamentary force and start to influence how other parties behave and speak,” he stressed. “Another matter of concern for us are the recent outrages against Roma in Europe. I stressed that measures taken in some European countries certainly did not help to improve the integration of this vulnerable minority and I warned that they were likely to lead to an increase in racist and xenophobic feelings in Europe. We must now concentrate on giving the much-needed political impetus to existing national and international efforts for the sustainable integration of Roma. I therefore give my full support to the Secretary General’s initiative to convene a high-level meeting on Roma on 20 October 2010 in Strasbourg,” the PACE President concluded.

### **The President reiterates the importance of the principle of non-discrimination (04.10.2010)**

“Many of you know that it is the principle of non-discrimination which is of particular importance to me. During the last couple of months, it has been the issue of the Roma population in Europe which has raised serious questions about discrimination. On 20 August, I declared that I was shocked by recent outrages against Roma in Europe. Measures taken in some European countries certainly did not help to improve the integration of this vulnerable minority and I warned that they were likely to lead to an increase in racist and xenophobic feelings in Europe,” said PACE President Mevlüt Çavusoglu at the opening of the Assembly’s autumn session in Strasbourg. He called for a much-needed political impetus to be given to existing national and international efforts for the sustainable integration of Roma. Welcoming the Secretary General’s initiative in convening a high-level meeting on Roma on 20 October 2010 at the Council of Europe in Strasbourg, he said he was confident that the work done by the Assembly in this field, would be taken into account in the final declaration of this meeting. He pointed out that he would also be raising the issue of integration with the German Minister of Foreign Affairs, Mr Westerwelle, at their meeting later in the day. “For me,” he concluded, “integration does not mean assimilation. We must succeed in combining the legitimate demands of states asking for more

integration efforts on the part of migrants, especially as regards learning the language of the receiving country, with the need to preserve cultural and religious traditions of migrants". [Opening speech by PACE President](#)

#### **Wojciech Sawicki elected PACE Secretary General (05.10.2010)**

PACE, meeting in plenary session in Strasbourg, elected on 5 October Wojciech Sawicki to the post of Secretary General of the Assembly for a five-year term starting on 1 February 2011. The PACE Secretary General ensures the functioning of the Assembly, monitors its decisions and co-ordinates the work of the committees.

#### **Gvozden Flego new head of PACE Committee on Culture, Science and Education (07.10.2010)**

Gvozden Srečko Flego (Croatia, SOC) has been elected Chair of the Assembly's Committee on Culture, Science and Education. Alongside his parliamentary role, Mr Flego is a Professor at the University of Zagreb and a former Minister for Science and Research in Croatia. He replaces the late Andrew McIntosh (United Kingdom, SOC).

#### **Rights of irregular migrants: "politically difficult but no one should be left behind" (06.10.2010)**

John Greenway, Chair of the Committee on Migration, Refugees and Population of PACE publicly welcomed the timely and outspoken position taken by the Global Migration Group on the controversial issue of human rights of migrants in irregular situation. "The strong and unequivocal statement by the Global Migration Group last week entirely reflects the stance taken by this Assembly in recent years. I particularly welcome the unambiguous demand that, in dealing with migrants in an irregular situation, member states must have regard to applicable human rights standards and guarantees at all stages of the migration process. Entering or overstaying in a country in violation of its immigration laws does not deprive migrants of their fundamental human rights, nor does it affect member states' obligation to protect these rights. As the key intergovernmental human rights organisation on the European continent, the Council of Europe has a particular role to play in ensuring respect for the rights of irregular migrants to human dignity, physical integrity as well as safety and freedom from discrimination and minimum social rights. "The issue may be controversial, it may be politically difficult," said Mr Greenway, "but no one should be left behind, when it comes to certain basic and fundamental rights"..

#### **PACE calls for laws to protect individuals from corporate abuses of human rights (06.10.2010)**

PACE has called for national laws to protect individuals from corporate abuses of rights enshrined in the European Convention on Human Rights and revised European Social Charter. Presenting a report on human rights and business, Holger Haibach (Germany, EPP/CD) said: "Businesses will only reap profits in the long term if they act ethically and responsibly." The parliamentarians also called on Council of Europe governments not to give contracts to firms which are associated with human rights abuses, including transnational firms operating beyond Europe.

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

### A. Country work

#### **August 2008 armed conflict in Georgia: serious shortcomings in clarifying the fate of missing persons (29.09.2010)**

“Regrettably, there have been serious shortcomings in the process of clarifying the fate of missing persons and ensuring accountability for the perpetrators of illegal acts”. With these words, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, published a report prepared by two international experts, whom he recruited to monitor investigations concerning the treatment and fate of certain missing persons on all sides during and after the armed conflict. [Read the report](#); Read the report [in Russian](#) and [in Georgian](#)

#### **Georgia: “Further improvements needed to ensure human rights and humanitarian protection” (07.10.2010)**

“All sides should ensure a faster improvement of the human rights situation in the areas affected by the August 2008 conflict” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing today a report based on his latest visits to Georgia. In particular, the Commissioner stresses the need to release all remaining detainees who have been apprehended when crossing the administrative boundary line after end of the hostilities. The report takes stock of the implementation of the six principles for urgent human rights and humanitarian protection which he formulated in the aftermath of the conflict. [Read the report on human rights issues following the August 2008 armed conflict in Georgia](#); Read the report [in Russian](#) and [in Georgian](#)

### B. Thematic work

#### **The public has the right to know what those they elected are doing (27.09.2010)**

The Voters have the right to know about the decisions taken by the politicians and administrations they have elected. The need for such transparency is recognised in principle in several European countries, but is not yet a reality throughout large parts of the continent. While the authorities collect more and more data on citizens, there is an unfortunate tendency to prevent the public from accessing government information. This secrecy is a threat against democracy and an urgent human rights concern. [Read the Comment](#)

#### **Roma in Europe: It is high time for states to move from words to action and eliminate systemic discrimination (30.09.2010)**

“Roma and Travellers continue to be subject to racism and pervasive discrimination across all social sectors in many European countries. It is high time to act to reverse this situation” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, at the Seminar on Roma rights organised on 30 September by the [ABF-Workers’ Educational Association](#) in Stockholm. [Read the speech](#); [Visit the Commissioner’s thematic page on Roma rights](#)

**Part VII: Activities of the Peer-to-Peer Network  
(under the auspices of the NHRS Unit of the Directorate General of  
Human Rights and Legal Affairs)**

+

—

---

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