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National Human Rights Structures Unit

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

("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

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

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Introduction

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

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

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

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

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

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

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

We invite you to read the INFORMATION NOTE No. 130 (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 May 2010 and sorted out as being of particular interest.

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Grand Chamber judgments**

Gäfgen v. Germany (no. 22978/05) (link to the judgment in French) (Importance 1) – 1 June 2010 – Violation of Article 3 – Police threat to use violence against child abduction suspect amounted to ill-treatment – No violation of Article 6 – Domestic courts' failure to exclude impugned evidence, secured following a statement extracted by means of inhuman treatment had not had a bearing on the applicant's conviction and sentence

The applicant is currently serving a life sentence in prison in Schwalmstadt for the abduction and murder of J., the youngest son of a well-known banking family in Frankfurt am Main. The applicant lured J., aged 11, into his flat, suffocated the child and subsequently deposited a ransom demand at J.'s parents' home, requiring them to pay one million euros (EUR) to see their child again. He then abandoned J.'s corpse under the jetty of a pond. The applicant collected the ransom at a tram station. He was placed under police surveillance and was arrested several hours later. On 1 October 2002 one of the police officers responsible for questioning Mr Gäfgen, on the instructions of the Deputy Chief of Frankfurt Police, warned the applicant that he would face considerable suffering if he persisted in refusing to disclose the child's whereabouts. They considered that threat necessary as they assumed J.'s life to be in great danger. As a result of those threats, the applicant disclosed where he had hidden the child's body. Following that confession, the police drove to the pond together with the applicant and secured further evidence. At the outset of the criminal proceedings against the applicant, the

Frankfurt am Main Regional Court decided that all his confessions made throughout the investigation could not be used as evidence at trial as they had been obtained under duress, in breach of Article 136a of the Code of Criminal Procedure and Article 3 of the Convention. However, the court did allow the use in the criminal proceedings of evidence obtained as a result of the statements extracted from the applicant under duress. In July 2003, the applicant was found guilty of abduction and murder and was sentenced to life imprisonment. Despite the fact that he had been informed at the beginning of the trial of his right to remain silent and that all his earlier statements could not be used as evidence against him, the applicant nevertheless again confessed that he had kidnapped and killed J. The court's findings of fact concerning the crime were essentially based on that confession. They were also supported by the evidence secured as a result of the first extracted confession, namely the autopsy report and the tyre tracks at the pond, and by other evidence obtained as a result of the applicant being observed after he had collected the ransom money. The applicant lodged an appeal on points of law which was dismissed by the Federal Court of Justice. He subsequently lodged a complaint with the Federal Constitutional Court, which refused to examine it. That court confirmed the regional court's finding, however, that threatening the applicant with pain in order to extract a confession constituted a prohibited method of interrogation under domestic law and violated Article 3 of the Convention. In December 2004 the two police officers involved in threatening the applicant were convicted of coercion and incitement to coercion while on duty and were given suspended fines of 60 and 90 daily payments of EUR 60 and EUR 120, respectively. In December 2005 the applicant applied to the regional court for legal aid in order to bring official liability proceedings against the Land of Hesse to obtain compensation for being traumatised by the investigative methods of the police. The court dismissed the application, and the court of appeal dismissed the applicant's appeal holding in particular that the applicant would face difficulties establishing a causal link between the threats of torture and the alleged mental damage necessitating psychological treatment. In January 2008, the Federal Constitutional Court quashed the court of appeal's decision and remitted the case. It found in particular that the refusal to grant the applicant legal aid had violated the principle of equal access to court and that whether the violation of his human dignity necessitated the payment of damages was a difficult legal question, which should not be determined in an application for legal-aid proceedings. The remitted proceedings are still pending before the regional court.

The applicant complained that he had been subjected to torture when questioned by the police. He further submitted that his right to a fair trial had been violated in particular by the use of evidence secured as a result of his confession obtained under duress.

Article 3

The Court first noted that it had been established by the German courts that a police officer, acting on the instructions of the Deputy Chief of Frankfurt Police, had threatened the applicant with being subjected to intolerable pain in order to make him disclose J.'s whereabouts. The Court considered that these immediate threats of deliberate and imminent ill-treatment had to have caused the applicant considerable fear and mental suffering. It observed that, as established by the domestic courts, the deputy police chief had ordered his subordinates on several occasions to use force against the applicant, his order could therefore not be regarded as a spontaneous act, but had been calculated in a deliberate manner. The Court accepted that the police officers had been motivated by the attempt to save a child's life. However, the prohibition on ill-treatment applied irrespective of the conduct of the victim or the motivation of the authorities; it allowed no exception, not even where the life of an individual was at risk. The Court considered that in the present case the immediate threats against the applicant for the purpose of extracting information from him were sufficiently serious to be qualified as inhuman treatment falling within the scope of Article 3. Having regard to its case-law and to the views taken by other international human rights monitoring bodies, it found, however, that the method of interrogation to which the applicant had been subjected had not reached the level of cruelty to attain the threshold of torture. The Court was satisfied that the domestic courts, both in the criminal proceedings against the applicant and against the police officers, had acknowledged expressly and in an unequivocal manner that the applicant's interrogation had violated Article 3. It observed, however, that the police officers, having been found guilty of coercion and incitement to coercion, respectively, had been sentenced only to very modest and suspended fines. The domestic courts had taken into consideration a number of mitigating circumstances, in particular the fact that the officers had aimed to save J.'s life. While the Court accepted that the present case was not comparable to cases concerning arbitrary acts of brutality by State agents, it nevertheless considered that the punishment of the police officers did not have the necessary deterrent effect in order to prevent further Convention violations of this kind. Moreover, the fact that one of the police officers had subsequently been appointed chief of a police agency raised serious doubts as to whether the authorities' reaction reflected adequately the seriousness involved in a breach of Article 3. As regards compensation to remedy the Convention violation, the Court noted that the applicant's request for legal aid to bring liability proceedings, following a remittal, had been pending for more than three years and that no decision had yet been taken on the merits of his compensation claim. The domestic courts' failure to decide on the merits of

the claim raised serious doubts as to the effectiveness of the official liability proceedings. In the light of these findings, the Court considered that the German authorities did not afford the applicant sufficient redress for his treatment in breach of Article 3. The Court concluded, by eleven votes to six, that the applicant could still claim to be the victim of a violation of Article 3 and that Germany had violated Article 3.

Article 6

As the Court had established in its case-law, the use of evidence obtained by methods in breach of Article 3 raised serious issues regarding the fairness of criminal proceedings. It therefore had to determine whether the proceedings against the applicant as a whole had been unfair because such evidence had been used. The Court found that the effective protection of individuals from the use of investigation methods in breach of Article 3 may require, as a rule, the exclusion from use at trial of real evidence obtained as a result of a breach of that Article. It considered that this protection and a criminal trial's fairness were only at stake however if the evidence obtained in breach of Article 3 had an impact on the defendant's conviction or sentence. In the present case, it was the applicant's new confession at the trial – after having been informed that all his earlier statements could not be used as evidence against him – which formed the basis for his conviction and his sentence. The evidence in dispute had therefore not been necessary to prove him guilty or determine his sentence. As regards the question whether the breach of Article 3 in the investigation proceedings had a bearing on the applicant's confession during the trial, the Court observed that he had stressed in his statements at the trial that he was confessing freely out of remorse and in order to take responsibility for his offence, despite the threats uttered against him by the police. The Court therefore had no reason to assume that the applicant would not have confessed if the courts had decided at the outset to exclude the disputed evidence. The Court found that, in the particular circumstances of the case, the failure of the domestic courts to exclude the impugned evidence, secured following a statement extracted by means of inhuman treatment, had not had a bearing on the applicant's conviction and sentence. As the applicant's defence rights had been respected, his trial as a whole had to be considered to have been fair. The Court concluded, by eleven votes to six, that there had been no violation of Article 6. Judges Tulkens, Ziemele and Bianku expressed a partly concurring opinion; Judges Rozakis, Tulkens, Jebens, Ziemele, Bianku and Power expressed a partly dissenting opinion; Judge Casadevall expressed a partly dissenting opinion, joined by Judges Mijović, Jaeger, Jočiene and López Guerra.

- **Right to life**

Jasińska v. Poland (no. 28326/05) (Importance 2) – 1 June 2010 – Violation of Article 2 (positive obligation) – Negligence on the part of domestic authorities enabled a mentally fragile first-time prisoner to commit suicide

The applicant assumed partial responsibility for bringing up her grandson, R. Ch., whose mother had died and whose father was in prison. The child received treatment at a very young age for mild psychosis, hyper excitability, irritability, depression and headaches. It was later discovered that his condition was due to meningitis, from which he had suffered as a child. He was prescribed medical treatment and declared partially unfit for work. R. Ch. was convicted a number of times for theft, including one charge of aggravated theft. In March 2002 he began serving a nine-year sentence in Krasnystaw Prison. He consulted doctors about thirty times and was prescribed psychotropic drugs on a number of occasions, the last one being on 25 August 2004 when he consulted a psychiatrist who made the following observations: "negative frame of mind, general malaise, bouts of depression, headaches". On 28 August 2004 R. Ch. was taken to hospital by ambulance suffering from convulsions and shaking. He admitted having swallowed psychotropic tablets that had been prescribed by one of the consultant psychiatrists at the prison. He started shaking again and after an unsuccessful attempt to resuscitate him, he died during in the morning.

The autopsy report of January 2005 indicated that the main cause of death had been drug poisoning. Criminal proceedings instituted by the district prosecutor's office were closed by the prosecutor on the ground that, according to the investigation, the only possible explanation was that R. Ch. had succeeded in getting hold of a substantial quantity of tablets by hiding them under his tongue every time the nurse distributed them. The applicant instituted a second set of criminal proceedings against the authorities, claiming that they had failed to take account of her grandson's state of health and had thus negligently caused his suicide. The investigation was closed on the ground that there was no evidence to suspect that a third party had contributed to the death or that the authorities had been negligent. A court-ordered expert report of May 2002 had concluded that R. Ch. was not suffering from a serious mental illness and that his condition did not require him to be hospitalised outside prison, but had pointed out nonetheless that he had stated that he had previously slit his veins and attempted to poison himself with medicines. The investigation carried out after the young man had committed

suicide confirmed that he had shown signs of mild mental deficiency, phobia and mild injuries to his central nervous system.

The applicant alleged that negligence on the part of the prison authorities had allowed her grandson to kill himself.

The Court noted that the prison authorities had been informed of the deterioration in R. Ch.'s health and should legitimately have considered him as a suicide risk rather than simply renewing his medical prescriptions. R. Ch.'s condition had been diagnosed while he was a child and confirmed subsequently. Moreover, the expert report of 29 May 2002 had clearly indicated that he had mentioned a previous attempt to commit suicide. His continuing bouts of depression had also been referred to during the consultation of 25 August 2004, three days before he committed suicide. At no time had the authorities in charge of the proceedings after R.Ch.'s death ever attempted to clarify the exact circumstances in which the psychotropic drugs had been administered or how their ingestion had been supervised. Nor had the Government provided a plausible explanation for how the young man had managed to elude the vigilance of the prison authorities by amassing a lethal quantity of drugs. The Court noted a clear deficiency in a system that had allowed a first-time prisoner, who was mentally fragile and whose state of health had deteriorated, to gather a lethal dose of drugs without the knowledge of the medical staff responsible for supervising the ingestion of his medicine, and to subsequently commit suicide. It pointed out that the authorities' responsibility was not confined to prescribing medicines, but also consisted in ensuring that they were properly taken, in particular in the case of mentally disturbed prisoners. As the authorities had failed to comply with their obligation to protect the life of the applicant's grandson, the Court held that there had been a violation of Article 2.

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

Biçici v. Turkey (no. 30357/05) (Importance 2) – 27 May 2010 – Violation of Article 3 (substantive and procedural) – Excessive use of police force against the applicant during the dispersal of a demonstration – Lack of an effective investigation – Violation of Article 11 – Unnecessary forceful intervention of the police during a peaceful demonstration

In October 2003, while attempting to participate in a demonstration in the form of a press conference in the street, the applicant was arrested together with a number of other participants. Following her arrest and her complaint that the police officers had used disproportionate force to disperse the crowd, the applicant was taken to the hospital for a medical examination. The doctor who examined her reported that there were no signs of injury on her body, but noted that the applicant complained of pain in her upper arm. On the same day, the applicant was questioned by the public prosecutor. She informed him that she had been subjected to ill-treatment by the police, that by attending the meeting in the street, as the President of the Istanbul Human Rights Association, she had merely exercised her democratic rights and had been arrested without reason. She was subsequently released from police custody.

A few days later, the applicant lodged a complaint against the police officers involved in the incident, complaining about the unlawfulness of the arrest and about the excessive force used by the police. On the same day, she was referred to a forensic medical institute, where the doctor examining her noted an ecchymosis on the back of her leg and concluded that the injury rendered her unfit for work for five days. He also noted that she suffered from pain in her arm and shoulder. One year later, the public prosecutor issued a decision not to prosecute the police officers who had been on duty at the press conference. Relying on the incident report prepared by the police officers, the prosecutor noted that despite warnings the demonstrators, gathering illegally, had refused to disperse. The force used by the officers had therefore been justified and had not amounted to ill-treatment. The applicant's appeal against the decision was dismissed by the Istanbul Assize Court in December 2004. In parallel, a few days after the demonstration, the public prosecutor brought charges against a number of demonstrators, including the applicant, for violation of the Meetings and Demonstration Marches Act. In her defence submissions, the applicant reiterated that by participating in the demonstration she had merely exercised her democratic rights. In December 2006, the Beyoğlu Assize Court acquitted the applicants and her co-accused, holding in particular that the police had not given a proper warning that could be heard by everyone before arresting the demonstrators.

The applicant complained that she had been ill-treated during her arrest and that the investigation by the domestic authorities into her complaints was ineffective. She further complained that the police intervention at the meeting had constituted a violation of her right to freedom of assembly.

Article 3 (substantive)

The Court reiterated that particularly thorough scrutiny was required when allegations were made under this Article. While the medical examination of the applicant following her arrest had not revealed

a trace of ill-treatment on her body, she had informed the public prosecutor on the same day that she had been subject to such treatment. She had subsequently lodged a formal complaint against the police officers and a second medical report, finding an injury which rendered her unfit for work, had been accepted by the public prosecutor as evidence of her allegations. The burden to demonstrate that the use of force had not been excessive therefore rested with the Government. As had been established by the domestic courts in their judgment acquitting the applicant, the police was informed about the planned demonstration and might therefore have been expected to show some patience before attempting to disperse the non-violent demonstrators. Instead they had arrested them without proper warning and it appeared that this hasty response resulted in the injury of some demonstrators, including the applicant. The Court found that the Government had not provided convincing arguments that could have explained the degree of force used against the applicant. It held, by four votes to three, that there had been a substantive violation of Article 3.

Article 3 (procedural)

The Court noted that there had been serious shortcomings in the way the investigation into the applicant's complaints were conducted. The public prosecutor had never sought to obtain evidence from the accused police officers, but had solely relied on the incidence report. He had not made a serious attempt to establish the identities of the police officers who had been on duty, nor had he requested the applicant to identify those officers who she claimed had ill-treated her. Finally, the prosecutor had not secured the testimonies of potential eyewitnesses such as the persons arrested together with the applicant. The Court therefore unanimously concluded that authorities had failed to carry out an effective and independent investigation into the applicant's complaints, which amounted to a procedural violation of Article 3.

Article 11

The intervention of the police which led to the applicant's arrest for participating in the demonstration had constituted in itself an interference with her rights under this article. The Court was satisfied that the interference had had a basis in domestic law and that it pursued the legitimate aim of preventing public disorder. However, having regard to the findings of the domestic courts, the applicant and the other demonstrators had not broken the law; they had merely exercised their democratic rights. From the findings of the domestic courts it also followed that the group had not presented a danger to the public order. The Court reiterated that where demonstrators did not engage in acts of violence it was important for the public authorities to show a certain degree of tolerance if freedom of assembly as guaranteed by the Convention was not to be deprived of all substance. The Court unanimously concluded that the forceful intervention of the police had been unnecessary, in violation of Article 11.

- **Right to liberty and security**

Saghinadze and Others v. Georgia (no. 18768/05) (Importance 2) – 27 May 2010 – Violation of Article 1 of Protocol No 1 – Unlawful deprivation of IDPs' right to use a cottage – Violation of Article 8 – Unlawful eviction of IDPs from a home they occupied for over 10 years – Violation of Article 5 §§ 3 and 4 – Domestic courts' failure to sufficiently justify the extension of the applicant's detention and lack of an oral hearing

The applicants, with the exception of the fourth one, are internally displaced persons (IDPs) who fled Abkhazia, Georgia in 1993 abandoning their homes following the armed conflict of 1992-93. In January 1994, the Georgian Minister of the Interior offered the first applicant the post of Head of the Investigative Department within his Ministry. The first applicant and his family were settled in a cottage belonging to the Ministry. The cottage became the Ministry's property in 1993 on the basis of a ministerial order stating that the cottage was to be used for the purposes of accommodating exiled staff members of the Ministry. The first applicant and his family, along with eight other homeless relatives started living in the cottage and using the adjacent plot of land. In 1998, the first applicant retired from the Ministry which issued a letter in April 2000, given to him and to the relevant local government authorities, in which it confirmed that he held legitimate possession of the cottage of a temporary nature and for an unspecified period of time. After the Rose Revolution in November 2003, the first applicant was recalled from retirement and accepted to lead the investigation into an unsolved high-profile criminal case concerning a Georgian football player. According to the first applicant, as the findings of the investigation he led were inconvenient for certain high-ranking officials who had been covering up criminal machinations in the Georgian football, in March 2004 the then Prosecutor General personally asked him to drop the investigation. In June 2004 that Prosecutor General was appointed Minister of the Interior and, allegedly, during the same month he ousted the first applicant from the office in a demeaning manner. In October 2004 the first applicant submitted a confidential file to the National Security Council, which allegedly contained information revealing abuses of power by the Minister of the Interior and other high-ranking officials. Starting from October 2004, acting upon an

oral instruction of the Minister of the Interior, the police visited the applicant's family several times asking them to vacate the cottage. The first applicant refused, at times during heated exchanges with the police. In November 2004, in the first applicant's absence, a group of about sixty armed special force agents wearing black balaclava-like masks broke into the cottage and, without any legal document authorising their actions, forcibly ousted the Saghinadze's family members and relatives who were present in the cottage at the time. Police officers remained stationed in the cottage after the eviction. The first applicant brought civil proceedings and filed criminal complaints, claiming that he was arbitrarily deprived of the cottage and his professional activities were obstructed by the high-ranking officials in the Ministry of the Interior, which were dismissed. In February 2006, the police searched the cottage in the absence of the first applicant or his lawyers. They recorded finding firearms and copies of documents concerning various criminal cases. The next day, the district court authorised the search, thus legalising its results. In June 2006 the first applicant was charged with unlawful possession of a gun, misappropriation of confidential official documents, ill-treatment of a person, fabrication of evidence and other abuses of power committed in public office. He was arrested in June 2006 and, two days later, the court ordered his detention for two months reasoning that he might abscond and impede the investigation. The applicant's appeal against his detention was dismissed without an oral hearing and without seeking any comments from the prosecutor. In June 2006, when the investigation was completed, the applicant's continued detention was reviewed by the court and authorised once again with a page-long template with pre-printed reasoning. The applicant was sentenced to seven years in prison in 2007 and is currently serving his sentence.

The applicants complain about their eviction from the cottage and the resulting loss of the home in which they had been living for ten years. The first applicant further made various complaints about his pre-trial detention in the context of the criminal proceedings brought against him.

The Court noted that only the first applicant had pursued his complaints before the national judicial authorities. Consequently, the Court rejected the complaints of the rest of the applicants.

Right to property (Article 1 of Protocol No 1)

The Court noted that the Ministerial order of October 1993 had explicitly stated that the cottage had to be used for the purposes of accommodating staff members displaced from Abkhazia. The Court found that the authorities could not have reasonably been expected to follow up in detail on every housing situation given there had been about 300,000 IDPs to care for at the time. In addition, the first applicant had continuously been in the exclusive, uninterrupted and open possession of the cottage and used it for over ten years, and that had been tolerated by the authorities. Further, after the cottage had been given to the first applicant, Georgia had adopted various legal acts confirming IDPs' rights in the housing sector and establishing solid guarantees for their protection, including that IDPs could not be evicted against their will unless similar accommodation had been provided to them. The eviction and dispossession had occurred in the absence of any court decision, solely as a consequence of an oral order by the Minister of the Interior. In the subsequent court proceedings the courts had failed to acknowledge that he had been in continuous possession of the cottage for over ten years. They had not afforded him the protection provided for in the relevant domestic laws concerning IDPs. The Supreme Court in particular had contradicted its own earlier case law in which it had prevented a State agency from depriving an IDP from a State-owned dwelling which had been occupied without any State agency's permission. The Court concluded that the applicant had been deprived unlawfully of the right to use the cottage and the subsequent judicial review of this deprivation had been arbitrary and had amounted to a denial of justice, in violation of Article 1 of Protocol 1.

Right to respect for home (Article 8)

The Court held that the taking of the cottage, which had been the first applicant's home for over ten years, was unlawful and in violation of Article 8.

Pre-trial detention violations (Article 5 §§ 1, 3 and 4)

The Court held that the first two court decisions concerning the first applicant's detention had been well-reasoned, while the decision of 29 June 2006 had been formalistic in nature and not sufficient to justify detaining him further for six months and twenty-four days, in violation of Article 5 § 3. Concerning the complaints that the courts had decided to prolong his detention without holding an oral hearing, the Court found that not to have been to his detriment as the proceedings had nonetheless been adversarial and had respected the equality of arms. Therefore there had been no violation of Article 5 § 4. However, there had been a violation of Article 5 § 4 as regards the court decision of 29 June 2006, when the court had heard the prosecutor but not the applicant and when the decision had been on a template with pre-written findings. Judge Jočienė expressed a partly concurring opinion, and Judge Cabral Barreto expressed a partly dissenting opinion.

- **Length of proceedings**

De Hohenzollern (de Roumanie) v. Romania (no. 18811/02) (Importance 2) – 27 May 2010 – Violation of Article 6 § 1 – Excessive length of proceedings seeking authority to enforce a judgment recognising the first applicant as the son of King Carol II of Romania

The applicants are Carol Mircea Grigore de Hohenzollern (de Roumanie) – "the first applicant" – and his son Paul Philip de Hohenzollern – "the second applicant". They are, respectively, United Kingdom and Romanian nationals. Following the first applicant's death in 2006, his son continued the proceedings before the Court, on his own and on his father's behalf. In a judgment of February 1955 the Lisbon District Court recognised the first applicant, who had been born outside marriage, as the son of King Carol II of Romania. The applicants sought authority to enforce the judgment in Romania, to have the judgment considered as final in that country. They sought to have their membership of the Romanian royal family recognised and submitted that they were entitled to the estate left by Carol II, in the context of restitution by the State to the former King Mihai of part of the former royal properties. In October 1995 the judgment of the Lisbon District Court was recognised as final in Romania. The former King Mihai of Romania lodged two unsuccessful appeals against that decision. In February 2002 the Procurator-General of Romania successfully requested the Supreme Court of Justice to quash the previous decisions on the ground that Princess Anne of Bourbon-Parme had been a party to the proceedings before the Lisbon District Court but not to the proceedings seeking authority to enforce the judgment in Romania. On 1 July 2002 authority to enforce the judgment was upheld by a court decision that was subsequently set aside on appeal by the former King Mihai and Princess Anne of Bourbon-Parme. Following the death of the first applicant, the proceedings were stayed from June 2006 until June 2007. The defendant party challenged an application by Paul Philip de Hohenzollern to continue the proceedings. The case is still pending today.

The applicants complained of the length of the proceedings seeking authority to enforce the judgment in Romania. They also alleged that the domestic courts had lacked impartiality and that the principle of equality of arms had been breached in the proceedings before the Supreme Court.

The Court considered that proceedings to enforce a judgment abroad that had lasted more than 15 years and were still not finished were particularly long. It pointed to the lack of diligence on the part of the authorities, and in particular the three years during which the case had remained pending before the Court of Appeal. Accordingly, the proceedings had not satisfied the "reasonable time" requirement enshrined in Article 6 § 1 and the Court held that there had been a violation of that provision in respect of the first applicant.

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

Dimitras and Others v. Greece (nos. 42837/06, 3269/07, 35793/07 and 6099/08) (Importance 2) – 3 July 2010 – Violation of Article 9 – The requirement that the applicants reveal their religious convictions in order to be allowed to make a solemn declaration in Court hearings had interfered with their freedom of religion – Violation of Article 13 – Lack of an effective remedy

The applicants were summoned to appear in court on various dates between February 2006 and December 2007, as witnesses, complainants or suspects in criminal proceedings. In conformity with Article 218 of the Code of Criminal Procedure, they were asked to take the oath by placing their right hands on the Bible. Each time, they informed the authorities that they were not Orthodox Christians and preferred to make a solemn declaration instead, which they were authorised to do. In several cases, in the standard wording of the minutes of the proceedings concerned, the words "Orthodox Christian", were crossed out and replaced by the handwritten references "atheist" and "made a solemn declaration", for example. Some records were actually incorrect, stating "Orthodox Christian – took the oath" when in fact the person was an atheist and had made a solemn declaration instead. Even when they appeared in court without being required to take the oath, the applicants had had to reveal their religious convictions in order to request the amendment of the standard reference to "Orthodox Christian" on the form used for the minutes.

The applicants complained that they had been obliged to reveal their "non-Orthodox" religious convictions when taking the oath in court. They further alleged that the presence of religious symbols in the courtrooms and the fact that Greek judges were Orthodox Christians raised doubts about their impartiality.

Article 13

The Court noted that the Government had produced no example of a previous judgment showing that an action in damages with the administrative courts under the Civil Code would have been an effective remedy for the applicants to get compensation for the alleged infringement. Nor had they provided any

example of a domestic court refusing to apply the rules on oath taking because of their alleged incompatibility with the Greek Constitution and/or the Convention. The Court accordingly found a violation of Article 13.

Articles 8, 9 and 14

The Court reiterated that freedom of thought, conscience and religion, which went hand in hand with pluralism, was one of the foundations of a "democratic society" and that in its religious dimension that freedom was an essential part of any believer's identity, as well as being a precious asset for atheists, agnostics, sceptics and the unconcerned. It had already held that freedom to manifest one's religious beliefs included an individual's right not to reveal his faith or his religious beliefs and not to be obliged to act or refrain from acting in such a way that it was possible to conclude that he did or did not have such beliefs – and all the more so when aptitude to exercise certain functions was at stake. The applicants had been considered as Orthodox Christians as a matter of course, and had been obliged, sometimes in hearings, to point out that they did not subscribe to that faith and, in some cases, to specify that they were atheists or Jews in order to have the standard wording of the minutes amended. In some court records they were expressly described as "atheists" or "of the Jewish faith".

This interference with their freedom of religion had been based on Articles 218 and 220 of the Code of Criminal Procedure and pursued the legitimate aim of the proper administration of justice. Article 218 regulated the taking of the oath in court, on the Bible. It was thus presumed in the Code of Criminal Procedure that all witnesses were Orthodox and willing to take the oath, as reflected in the standard wording of the records of court proceedings. Indeed, it is only exceptions to the rule that Article 220 provides for, allowing those who were not Orthodox Christians to take the oath in conformity with another religion or to make a solemn declaration if they had no religion or their religion did not permit oath taking. The wording of Article 220 actually required people to give details of their religious beliefs if they did not want the presumption contained in Article 218 to apply to them. Some of the applicants had had to convince the court officials concerned that they did not subscribe to any religion, failing which they would have had to take a religious oath. The incompatibility of the impugned legal provisions with Article 9 of the Convention was even more evident in Article 217 of the Code of Criminal Procedure, which stipulated that in any event all witnesses were required, amongst other information, to state their religion before testifying in criminal proceedings. The Court further noted that, unlike the Code of Criminal Procedure, the Code of Civil Procedure provided for witnesses, if they so wished and without any other formality, to be able to choose between taking a religious oath and making a solemn declaration. The Court found that requiring the applicants to reveal their religious convictions in order to be allowed to make a solemn declaration had interfered with their freedom of religion, and that the interference was neither justified nor proportionate to the aim pursued. There had therefore been a violation of Article 9.

- **Freedom of expression**

Gutiérrez Suárez v. Spain (no. 16023/07) (Importance 2) – 1 June 2010 – Violation of Article 10 – The restriction on the applicant's freedom of expression for publishing an article implicating a company belonging to the Moroccan royal family in drug trafficking, had not been proportionate to the potential seriousness of the damage to the reputation in question

At the material time the applicant was the publication director of the daily newspaper *Diario 16* in which an article was published in 1995 entitled "Five tons of hashish discovered in a consignment belonging to Hassan II's company" and referred to on the first page under the headline "A family company belonging to Hassan II implicated in drug trafficking". The article was about the seizure in Algesiras of 4,638 kilograms of hashish found in the false bottom of a lorry transporting fruit for Domaines Royaux, a company belonging to the Alaouite royal family. King Hassan II applied to a Madrid court of first instance, which ruled in November 1997 that there had been an interference with the fundamental right to respect for the king's reputation. It found that the title of the article had been tendentious and pointed out that a court decision of 1996 had established that the drug traffickers in question had had no connection with the Domaines Royaux company. The author of the article, the applicant and the publisher were sentenced to a fine and ordered to publish the judgment in the newspaper. The applicant unsuccessfully appealed to the Cadix Audiencia provincial, which held that the information published had not been checked against the results of the investigations or the case file on the criminal proceedings, then nearly completed. The Supreme Court also upheld the subsequent decisions, finding that the defamatory statements were contained in the headlines of the articles, which "led the average reader to believe that the Moroccan royal family had been an accomplice to illegal trafficking in hashish". The applicant lodged an appeal on grounds of unconstitutionality (amparo appeal) with the Constitutional Court, which referred to its case-law on the importance of press headlines and concluded that those in question, which were by their nature short,

had sown doubts in the mind of the public regarding the reputation of the royal family. It dismissed Mr Gutiérrez Suárez's appeal.

The applicant complained of his conviction for publishing an article on drug trafficking that implicated the Moroccan royal family. He further complained of an infringement of his right to adduce all evidence in the preparation of his defence and of having been convicted despite having been neither the author of the article nor the owner of the newspaper.

The Court noted that the interference with the applicant's freedom of expression had been justified by the authorities on the basis of Article 18 of the Constitution and a Law of 1982 on the protection of the right to honour, personal and family intimacy and personal image and also by the existence of the legitimate aim of protecting the reputation and rights of the King of Morocco. The information in question was a matter of general interest. The Spanish public had the right to be informed about drug trafficking in which the Moroccan royal family appeared to be involved, a matter that had moreover been the subject of an investigation before the Spanish criminal courts. The Court reiterated that the subject matter of court trials could be the subject of discussion in the press or among the public in general. The Spanish courts had not denied that the information published in the article was true. The Supreme Court had stated that the headlines and not the information itself had been defamatory. The Court considered that the headline and the content of the article should be viewed as a whole. It noted that, whilst the headline had been designed to attract the reader's attention, the information in the body of article was true. It also pointed out that it was not its task, or that of the domestic courts, to determine which journalistic techniques should be used and that journalistic freedom covered recourse to a degree of exaggeration. Furthermore, the author of the article had made reference to information available to her at the time. Provided that journalists acted in good faith and that the information imparted was true, they could not be expected – at the risk of compromising the vital role of "public watchdog" of the press – to undertake independent research. Accordingly, the restriction on the applicant's freedom of expression had not been proportionate to the potential seriousness of the damage to the reputation in question. The Court held, by six votes to one, that there had been a violation of Article 10.

Dumitru v. Romania (no. 4710/04) (Importance 3) – 1 June 2010 – Violation of Articles 6 § 1 – Domestic courts' failure to justify the applicant's conviction for defamation – Violation of Article 10 – Unjustified conviction for publishing an article concerning an on-going debate on a matter of general interest – Violation of Article 1 of Protocol No. 1 – Failure to enforce a final decision reinstating the applicant's ownership rights

In October 2002 the *Observator*, a local newspaper in Arad, published two successive articles accusing a police superintendent, B.T., of unlawfully appropriating ownership of real property. The second article, under the headline "superintendent B.T. accused of interference with possessions and misappropriation", reproduced the content of a criminal complaint lodged by the applicant against the police officer, accusing him of having wrongfully used a lake that belonged to the applicant for fish farming. According to the article, when asked how the police officer had managed to lay his hands on such a large lake, the applicant replied that he had "produced some extremely rough and ready forgeries" and, "in true mafia style", presented the forged documents to the municipal authorities in order to gain possession of the whole lake. In December 2002 the superintendent brought criminal proceedings against the applicant, claiming damages. In December 2003 the Arad Court of First Instance acquitted the defendant, noting that he had produced various documents in support of his allegations (title deed, entry in the land register, civil court decisions, etc.), which he had shown to the journalist in good faith. On appeal in May 2003, the County Court sentenced the applicant to a fine of six million Romanian lei – convertible into days of detention under the law in force at the time – and to pay the police superintendent fifty million lei in damages. Reviewing the facts presented before the first-instance court, it considered that in communicating the information to the journalist the applicant had seriously damaged the police officer's dignity and reputation, especially as his accusations had not stood up in court. Meanwhile, by a final decision of September 2001 the Ineu Court of First Instance had ordered the State Land Agency (SLA) to transfer ownership of the lake to the local commission for the application of Law No. 18/1991 on landed property, with instructions to transfer it, in its turn, to the applicant, restoring his right of ownership over the original site. Following that decision, the SLA transferred ownership of the lake to the local commission in December 2003. In March 2004, in reply to the applicant's enquiries, the prefecture informed him that the local commission had received instructions to transfer the lake in question to him. In June 2006, after several applications by the applicant to the competent authorities, the local commission decided to restore ownership of the original site to him. The county commission endorsed that decision. The applicant has yet to recover the lake concerned.

The applicant complained mainly about the lack of reasoning for the Arad County Court decision convicting him of defamation. In his submission his conviction had also interfered with his right to

freedom of expression. Lastly, he complained about the failure to enforce the 2001 decision acknowledging his title to the lake.

Reasoning behind the decision to convict the applicant of defamation (Article 6 § 1)

The Court reiterated that the Convention did indeed impose a duty on courts to give reasons for their decisions, but did not require them to give a detailed reply to every argument raised before them. However, there was no denying that in the present case the County Court had failed to state any concrete grounds for the conviction for defamation. Nor had it examined the material and intentional aspects of the offence of defamation, or singled out any material facts that could have justified its conclusion. The applicant was therefore right to argue that the Arad County Court had not given sufficient reasons for its judgment of 29 May 2003 and that he had not been given a fair hearing, in violation of Article 6 § 1.

Freedom of expression (Article 10)

The Court reiterated that interference with freedom of expression was acceptable only if it was provided for by law and served a legitimate purpose, which was the case here. However, the impugned measure also had to be "necessary in a democratic society" to achieve the legitimate aim pursued. The Court's examination focused mainly on this last consideration. The Court observed, first of all, that the applicant's claims, based on documentary proof, were sufficiently well grounded in fact. That showed his good faith, as did the moderation in his words, and the fact that he had expressed himself in the context of an on-going debate on a matter of general interest (a previous article having already been published on the subject). The Court also pointed out that unfair could in principle give rise to a violation of freedom of expression. Lastly, the Court referred to the severity of the sentence pronounced against the applicant (a fine convertible into days of detention, plus damages, the whole adding up to a sizeable sum). There had been a violation of Article 10.

Protection of property (Article 1 of Protocol No. 1)

The Court observed that in spite of a final decision in 2001 ordering the local commission to transfer ownership of the lake to the applicant, and his subsequent efforts to secure its enforcement, the decision had never been fully enforced or set aside or amended through any legal process of appeal. The applicant had not recovered his ownership rights. The Court accordingly considered that the State had not taken all the necessary steps to have the final judicial decision in his favour enforced. There had been a violation of Article 1 of Protocol No. 1.

- **Protection of property**

Sarica and Dilaver v. Turkey (no. 11765/05) (Importance 1) – 27 May 2010 – Violation of Article 1 of Protocol No. 1 – Unlawful interference with the applicants' right to peaceful enjoyment of their possessions on account of the Turkish courts' endorsement of the practice of *de facto* expropriation by ruling that the applicants had been deprived of their possessions as a result of the occupation of their land by the authorities in the public interest, and in the absence of a formal act of expropriation – Structural problem linked to the Turkish administrative authorities' practice of unlawfully appropriating property

The applicants are the heirs of Mr Sarıca, who died in June 2002. In 1983 Mr Sarıca, observing that three plots of land in Kandıra belonging to him had been incorporated *de facto* in a military zone, requested that a formally valid expropriation order be issued. The authorities informed him that the land in question would be formally expropriated in the near future. In March 2001, however, the authorities brought legal proceedings to have the land in question entered in the land register in the Treasury's name, without payment of compensation, claiming adverse possession (based on 20 years' occupation in accordance with Law no. 2942, in force at the time). In October 2001 Mr Sarıca lodged a claim for damages. In March 2002 the Kandıra District Court, which was examining both claims, found that the conditions for adverse possession had not been met and ruled in Mr Sarıca's favour. The Court of Cassation quashed that judgment on the ground that the *de facto* occupation of the land had begun in 1968 and not in 1983, with the result that the period of time required by the law had been complied with. In April 2003 Law no. 2942 was set aside by the Constitutional Court, ruling after the case had been referred to it. The court ordered that the applicants, as Mr Sarıca's heirs, be paid compensation together with default interest at the statutory rate with effect from 15 October 2001, and that ownership of the land be transferred to them. In February 2004 that judgment was upheld by the Court of Cassation. In April 2004 the applicants applied to the local enforcement and debt recovery office, requesting that the default interest on the debt owed to them be calculated on the basis of the maximum interest rate applicable to public debts, as defined by Article 46 of the Constitution, rather than on the lower statutory rate. The enforcement office issued the administrative authorities with a payment order to that effect. In May 2004, however, the Kandıra Enforcement Court allowed an

objection by the administrative authorities, ruling that Article 46 of the Constitution applied only to formal expropriations and not to awards of damages following de facto expropriation, as in the present case. The Court of Cassation upheld that judgment. The sums due were paid to the applicants at the end of 2004.

The applicants alleged an infringement of their right to peaceful enjoyment of their possessions, arguing that the administrative authorities had occupied the disputed land for many years without a formally valid expropriation order. They further alleged that the decision of the domestic courts to apply the statutory default interest rate to their claim rather than the maximum rate applicable to public debts had resulted in the amount of compensation due to them being reduced.

Protection of property (Article 1 of Protocol No. 1)

It was not disputed by the parties that there had been interference with the applicants' right to peaceful enjoyment of their possessions. The Court's task was to ascertain whether that interference had struck a fair balance between the demands of the general interest of the community and the protection of the applicants' fundamental rights. In general terms, the Court observed that the practice of *de facto* expropriation enabled the authorities to occupy immovable property and change its intended use irreversibly, so that it eventually came to be considered as State property without any kind of formal declaratory act transferring ownership. In such circumstances the only means of legitimising the transfer of the occupied property and providing some degree of retrospective legal certainty was a judgment by the competent court ordering the transfer of the property after finding that the occupation complained of had been unlawful and awarding damages to the persons concerned. This practice had the effect of obliging the persons concerned (who remained the owners of the property for legal purposes) to bring court proceedings against the administrative authorities, who until that point had never had to justify their action on any public interest grounds. In addition, the individuals concerned had to pay the court costs, which would normally be borne by the authorities in cases of formal expropriation. The purpose of a finding of de facto expropriation was in all cases to legally endorse an unlawful situation knowingly created by the authorities and to enable the latter to benefit from their unlawful conduct. The procedure in question, which allowed the authorities to disregard the rules governing formal expropriations, put the individuals concerned at risk of unforeseeable and arbitrary outcomes. It did not provide a sufficient degree of legal certainty and could not be considered as an alternative to formally valid expropriation. With regard to the present case, the Court observed that the authorities had appropriated the applicants' land in disregard of the rules on formal expropriation and without awarding them any compensation. The Turkish courts had endorsed the practice of *de facto* expropriation by ruling that the applicants had been deprived of their possession as a result of the occupation of their land by the authorities in the public interest. In the absence of a formal act of expropriation, the outcome of the proceedings had not been foreseeable for the applicants, whose position with regard to the deprivation of their property had not been firmly established until February 2004, when the Court of Cassation had upheld the property transfer. Furthermore, the Court could not accept that the maximum interest rate applicable to public debts should apply only to formal expropriation procedures, as that would encourage the authorities to carry out unlawful expropriations in order to save money. In conclusion, the interference with the applicants' right to peaceful enjoyment of their possessions had been incompatible with the principle of lawfulness. The Court therefore held that there had been a violation of Article 1 of Protocol No. 1.

Binding force and execution of judgments (Article 46)

The Court received a large number of applications similar to the present one and thus was of the view that there was a structural problem linked to the Turkish administrative authorities' practice of unlawfully appropriating property. It reiterated that the respondent State was free to choose the means by which it discharged its legal obligation to execute a judgment, provided that such means were compatible with the Court's conclusions. Nevertheless, in view of the structural nature of the problem identified in this judgment, it observed that general measures at national level were undoubtedly called for in its execution, measures which must take into consideration the large number of people affected. First and foremost, the State would need to take measures aimed at preventing the unlawful occupation of immovable property, whether such possession was unlawful from the outset or was initially authorised and subsequently became unlawful. This might be achieved by authorising the occupation of such properties only where it was established that the expropriation project and decisions had been adopted in accordance with the rules laid down by law and that the necessary budgetary funds had been earmarked to ensure that the persons concerned received prompt and adequate compensation. In addition, Turkey should discourage practices incompatible with the rules on formally valid expropriations by adopting deterrent provisions and holding those responsible for such practices to account.

Đokić v. Bosnia and Herzegovina (no. 6518/04) (Importance 2) – 27 July 2010 – Violation of Article 1 of Protocol No. 1 – Domestic authorities' failure to strike a fair balance between the applicant's right to protection of property and the requirements of public interest, concerning the applicant's inability to repossess his pre-war home in Sarajevo

The case concerned the applicant's failed attempts to repossess a flat – and be registered as its owner – he had bought in Sarajevo and which he left following the outbreak of the 1992-1995 war in Bosnia and Herzegovina.

In 1986 the applicant, working as a lecturer at a military school based in Sarajevo, was allocated a military flat, one of the around 16,000 flats nominally controlled at that time in Bosnia and Herzegovina by the armed forces of the Socialist Federal Republic of Yugoslavia ("the JNA"). After the war, in August 1998, the applicant made an application to repossess his flat in Sarajevo under the Restitution of Flats Act 1998. His application was rejected in March 2000 under section 3a of that Act according to which only those who could prove that they were genuine refugees or displaced persons were entitled to return to their pre-war homes. Although repealed in July 1999 by the High Representative, that restriction remained in force as regards military flats owned by those who served in the successor states of the SFRY (the Socialist Federal Republic of Yugoslavia), and in reality, by almost exclusively those, like the applicant, who served in the VJ forces. The rejection of the applicant's application was ultimately upheld by the Supreme Court of the Federation of Bosnia and Herzegovina in December 2006. In July 2002 the restitution commission set up under the Dayton Peace Agreement[4], before which the applicant pursued parallel proceedings, declined jurisdiction as it found that he was neither a refugee nor a displaced person. In the meantime, the applicant had also applied to the Human Rights Commission, a domestic human-rights body. In March 2006 the Commission found that his inability to repossess the flat and to be registered as its owner had amounted to an interference with the peaceful enjoyment of his possessions under Article 1 of Protocol No. 1 to the Convention. However, it held that his service in the VJ forces after the war demonstrated his disloyalty to Bosnia and Herzegovina and that, given the serious shortage of housing and the fact that he was entitled to compensation, the interference had been justified. To date the applicant, unable to repossess his flat in Sarajevo, has not been allocated a flat in Serbia either; he receives a rent allowance of approximately 100 euros (EUR) from the Serbian authorities.

The applicant complained about his inability to repossess his flat and to be registered as its owner, despite having a legally valid purchase contract.

Firstly, the Court noted the strong local opposition to those who served in the VJ forces, like the applicant, returning to their pre-war homes. Such opposition could be explained by evidence of the VJ forces' direct and indirect participation in military operations in Bosnia and Herzegovina, such as occurred throughout the war in Sarajevo in the form of blockades, day-to-day shelling and sniping. It did not, however, justify it. Moreover, there was no indication that the applicant had participated, as part of the VJ forces, in any military operations in Bosnia and Herzegovina, let alone in any war crimes. He was treated differently merely because of his service in those forces. Indeed, it is well known that the nature of the recent war in Bosnia and Herzegovina was such that service in certain armed forces was to a large extent indicative of one's ethnic origin, be it Bosnian, Croat or Serb. Accordingly, the contested legislation, although apparently neutral, had the effect of treating people differently on the ground of their ethnic origin, a situation which the Court, as a matter of principle, could not objectively justify in a contemporary democratic society. As concerned the Government's argument that the contested legislation had been justified in view of the scarce housing space and a pressing need to accommodate destitute members of the local armed forces (in particular the Army of the Republic of Bosnia and Herzegovina, the "ARBH", mostly made up of Bosnians) and their families in the aftermath of the 1992-95 war, the Court observed that the statistics provided did not demonstrate that the freed housing space was in fact used to accommodate those who were deserving of protection. The figures simply confirmed that most military flats had been allocated to war veterans, war invalids and families of killed members of the ARBH forces, without indicating their housing situation or their income. Moreover, according to reliable reports, many high-ranking officials whose housing needs had otherwise been met were nevertheless allocated military flats. As regards the possibility for the applicant to acquire a tenancy right in Serbia, he has not actually been allocated a flat there and, following the introduction of a new housing act in Serbia in 1992, can only acquire a tenancy right of limited duration, which, according to the Bosnian courts, does not amount to an occupancy right under the restitution legislation. Lastly, the Court considered that neither the compensation to which the applicant could be entitled – as assessed by the Government, namely 10,750 euros (EUR) – nor the refund calculated since 2006 of the amount paid for the Sarajevo flat plus interest – that is, less than EUR 3,500 – were reasonably related to the flat's market value. The Court therefore concluded that a fair balance had not been struck between the applicant's right to protection of property and the requirements of public interest, in violation of Article 1 of Protocol No. 1.

- **Deportation cases**

Mawaka v. The Netherlands (no. 29031/04) (Importance 2) – No violation of Article 3 – There would be no violation of Article 3 if the applicant were to be expelled from the Netherlands to his country of origin – No violation of Article 8 – The mother of the applicant's son had not brought proceedings concerning her residence status or that of her son and they might thus be required to leave the country as well

The applicant lived in Belgium from September 1992 until January 1994 when he returned to the Democratic Republic of Congo (then called Zaire) and started working as the personal secretary of a prominent opposition member. In October 1994, the applicant was contacted by unknown men asking for his assistance in killing his boss. The applicant refused. A few weeks later, the applicant's boss disappeared, was later found beaten and unconscious, and died in a local hospital. The applicant was arrested allegedly because he had refused to kill his boss. Threatened and beaten, he managed to escape from detention with the assistance of a guard from the same tribe as himself. Having hidden in the guard's home until 6 January 1995, he flew to Belgium and was then driven to the Netherlands where he requested asylum. In July 1996, the applicant was first granted a residence permit for the purposes of asylum since there were sufficient grounds to believe that he would be persecuted should he return to the DRC. He married a Congolese national in the Netherlands with whom he had a son. In November 2001, the applicant was informed that his residence permit would be revoked given that he had been criminally convicted in Belgium in January 1997. The letter also concluded that there had been inconsistencies in the applicant's story when he had requested asylum and that he no longer risked persecution in his country of origin, among others, since the regime there had changed. In July 2002 a decision was issued revoking his residence permit, which he appealed in court, unsuccessfully. The applicant currently lives in the Netherlands and has since divorced his wife but continues to visit her and their child frequently.

The applicant complained that if expelled to the DRC, he would run a real risk of being ill-treated and his family life would suffer.

Risk of ill-treatment (Article 3)

The Court first noted, with reference to reports presented by the United Nations, the US Department of State, Freedom House and the UK Home Office, that the general situation in the DRC at present certainly gave cause for concern. The circumstances in the North-East provinces were particularly dire. However, the applicant had resided in Kinshasa before leaving the DRC. There was thus no reason to assume that, if he returned, he would be expelled to the North-Eastern part of that country. In addition, no evidence had been adduced by the applicant showing that the situation in the DRC was one of such extreme general violence that he would face a real risk of ill-treatment merely by his presence in that country. As regards the personal risk for the applicant in view of his past activities in the DRC, the Court noted that a long time had elapsed since he had fled and that he had not attracted additional negative attention from the DRC authorities in the meantime. Further, the Dutch authorities had made an assessment of the risk of ill-treatment when they revoked his residence permit. Consequently, the Court concluded that no evidence had been presented showing that the applicant would face a real and personal risk upon his return to the DRC. Accordingly, there would be no violation of Article 3 if the applicant were expelled to his country of origin.

Family life (Article 8)

The Court recalled that the Convention did not guarantee the right of an alien to enter or to reside in a particular country. It then noted that the mother of the applicant's son had not brought proceedings concerning her residence status or that of her son. Therefore, given that neither she, nor their son, had a legal entitlement to reside in the Netherlands, they might be required to leave the country too. Consequently, there had been no violation of Article 8.

- **Disappearances cases in Chechnya**

Khutsayev and Others v. Russia (no. 16622/05) (Importance 3) – 27 May 2010 – Violations of Article 2 (substantive and procedural) – Disappearance and presumed death of the applicants' close relatives – Lack of an effective investigation – Three violations of Article 3 – Ill-treatment of the first, eighth and ninth applicants and of the applicants' close relatives during arrest – Lack of an effective investigation – Mental suffering in respect of the applicants – Violation of Article 5 – Unacknowledged detention of the applicants' relatives – Violation of Article 8 and Article 1 of Protocol 1 – Search of the applicants' homes by State military or security forces – Violation of Article 13 in conjunction with Article 8 and Article 1 of Protocol 1 – Lack of an effective remedy – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Alapayevy v. Russia (no. 39676/06) (Importance 3) – 3 July 2010 – Violations of Article 2 (substantive and procedural) – Disappearance and presumed death of the applicants' close relative – Lack of an effective investigation – Violation of Article 3 – Mental suffering in respect of the applicants – Violation of Article 5 – Unlawful detention of the applicants' relative – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 27 May 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 01 June 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 03 June 2010: here

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Albania	27 May 2010	Berhani (no. 847/05) Imp. 2	Violation of Art. 6 § 1 (fairness) No violation of Art. 6 § 1 (length)	Lack of adequate reasoning of the domestic courts' decisions and failure to hear witnesses' incriminating evidence Reasonable length of proceedings	Link
Bulgaria	27 May 2010	Tilev (no. 25051/02) Imp. 3	Violations of Art. 6 § 1 (fairness and length) Violation of Art. 1 of Prot. 1	Unfairness and excessive length of compensation proceedings in respect of the applicant's eviction from land that he had been farming	Link
Georgia	27 May 2010	Tchitchinadze (no. 18156/05) Imp. 2	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	The quashing of a final and enforceable decision in the applicant's favour in which the sale of property he owned had been annulled and the proceedings reopened, infringed the principle of legal certainty and interfered with the applicant's right to the peaceful enjoyment possessions and imposed an excessive and disproportionate burden on the applicant	Link
Poland	01 Jun. 2010	Bieniek (no. 46117/07) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention (seven years and ten months) Excessive length of criminal proceedings	Link
Romania	27 May 2010	Drăghici and Others (no. 26212/04) Imp. 3	Violation of Art. 6 § 1	Dismissal of the applicants' claim to have their land, confiscated during the communist era, returned to them on account of their failure to comply with a particular administrative procedure	Link
Romania	27 May 2010	Ogică (no. 24708/03) Imp. 3	Violation of Art. 3 Violation of Art. 5 § 1	Poor conditions of detention in Bucureşti-Jilava Unlawful detention	Link
Romania	27 May 2010	Constantin (no. 38515/03) Imp. 3	Violation of Art. 1 of Prot. 1	Hindrance to the applicant's right to enjoy his property rights, since a third party had taken possession of the land after being recognised as the owner by a different authority, without annulling the applicant's title	Link

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

				to the property and without compensation	
Romania	01 Jun. 2010	Bulfinsky (no. 28823/04) Imp. 2	Violation of Art. 6 § 1	Unfairness of criminal proceedings on account of domestic authorities' failure to sufficiently investigate the applicant's allegations of entrapment	Link
Romania	01 Jun. 2010	Iamandi (no. 25867/03) Imp. 3	Violation of Art. 3	Poor conditions of detention in Giurgiu and Rahova prisons	Link
Romania	01 Jun. 2010	Răcăreanu (no. 14262/03) Imp. 3	Violation of Art. 3	Poor conditions of detention in Jilava and Rahova prisons	Link
Russia	03 Jun. 2010	Galeyev (no. 19316/09) Imp. 3	Violation of Art. 5 § 1	Unlawful detention pending extradition to Belarus	Link
Russia	03 Jun. 2010	Kamaliyevy (no. 52812/07) Imp. 3	No violation of Art. 8	The State did not exceed the margin of appreciation which it enjoys in the area of immigration matters concerning the first applicant's deportation to Uzbekistan	Link
Russia	03 Jun. 2010	Konashevskaya and Others (no. 3009/07) Imp. 3	Violation of Art. 6 § 1 No violation of Art. 6 § 1	Excessive length of criminal proceedings for aggravated fraud in respect of the 1st, 2nd and 3rd applicants Reasonable length of criminal proceedings for aggravated fraud in respect of the 4th applicant	Link
Russia	27 May 2010	Artyomov (no. 14146/02) Imp. 2	Three violations of Art. 3 Violation of Art. 13 No violation of Art. 3 Violation of Art. 6 § 1 No violation of Art. 6 § 1	Conditions of detention in facility no. IZ-39/1 in Kaliningrad; the torture to which the applicant was subjected by officers of the special-purpose unit in the correctional colony in October 2001; the inhuman treatment as regards the beating in January 2002; lack of an effective investigation in that regard Lack of an effective remedy No violation in respect of the alleged beating in November 2001 as the recourse to physical force had been rendered strictly necessary by the applicant's own behaviour Deprivation of the opportunity to present his case effectively on account of the applicant's absence before the domestic courts concerning the proceedings concerning the conditions of the applicant's detention in facility no. IZ-39/1 and the Gvardeyskiy District police department Fairness of proceedings concerning the beatings in the colony on account of the fact that there were circumstances which justified dispensing with the applicant's right to attend the hearing before the Kaliningrad Regional Court	Link
the Czech Republic	27 May 2010	Otava (no. 36561/05) Imp. 3	Violation of Art. 1 of Prot. 1	Deprivation of the applicant's house, acquired in good faith and confiscated by the State, without receiving compensation	Link
"the former Yugoslav Republic of Macedonia"	27 May 2010	Nasteska (no. 23152/05) Imp. 3	Violations of Art. 6 § 1 (fairness and length)	Unfairness of proceedings on account of the public prosecutor's presence at the Court of Appeal's session of which the applicant was not even notified Excessive length of criminal proceedings for abuse of office	Link
"the former Yugoslav	27	Sandel v. (no.	Violation of Art. 6 § 1	Excessive length of criminal	Link

Republic of Macedonia"	May 2010	21790/03) Imp. 3	(length)	proceedings	
Turkey	27 May 2010	Asproftas (no. 16079/90) Imp. 3 Petrakidou (no. 16081/90) Imp. 3	No violation of Art. 8 No violation of Art. 14 in conjunction with Art. 8 No violation of Articles 3, 5, 6, 7, 11, 13 No violation of Art. 14 in conjunction with Articles 5, 6 and 7	No violations of the rights and freedoms protected by the Convention in the applicants' complaints concerning their taking part in a demonstration on 19 July 1989 in Nicosia and subsequent arrest by Turkish police	Link Link
Turkey	27 May 2010	Çelik (No. 2) (no. 39326/02) Imp. 3	Violation of Art. 3 (procedural)	Lack of an effective investigation into allegations of ill-treatment resulting in impunity for those responsible	Link
Turkey	27 May 2010	Fadime and Turan Karabulut (no. 23872/04) Imp. 2	Violation of Art. 2 (procedural)	Lack of an effective investigation into the killing of the applicants' 14-year-old daughter by a group of soldiers who shot her while she was hitchhiking	Link
Turkey	27 May 2010	Nejdet Şahin and Perihan Şahin (no. 13279/05) Imp. 2	No violation of Art. 6 § 1	The mere fact that the proceedings took place before the military administrative courts did not render them unfair	Link
Turkey	27 May 2010	Özbek (no. 25327/04) Imp. 3	Violation of Art. 1 of Prot. 1	Unlawful occupation of the applicant's land by the Turkish army for at least four years and total lack of compensation	Link
Turkey	27 May 2010	Şahap Doğan (no. 29361/07) Imp. 3	Violation of Art. 5 §§ 3 and 5 Violation of Art. 6 § 1	Excessive length of pre-trial detention (over twelve years and ten months and still continuing) and lack of an enforceable right to compensation Excessive length of criminal proceedings (over thirteen years and ten months before two levels of jurisdiction)	Link

3. Repetitive cases

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

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

State	**Date**	**Case Title**	**Conclusion**	**Key words**
Romania	27 May 2010	Bîrlă (no. 18611/04) link	Violation of Art. 6 § 1	Quashing of a final decision in the applicant's favour by means of an extraordinary appeal
Romania	27 May 2010	Marin and Gheorghe Rădulescu (no. 15851/06) link	Violation of Art. 1 of Prot. 1	Failure to enforce a final decision in the applicants' favour awarding them compensation for property belonging to them that had been illegally nationalised
Romania	27 May 2010	Papuc (no. 44476/04) link	Violation of Art. 6 § 1	Lengthy non-enforcement of a final judgment in the applicants' favour ordering the restitution of land belonging to them which had been occupied
Turkey	27 May 2010	Düzdemir and Günger (nos. 25952/03 and 25966/03) link	Violation of Art. 6 § 1	Failure to enforce in good time judgments granting compensation to the applicants

4. Length of proceedings cases

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

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

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

State	Date	Case Title	Link to the judgment
Bulgaria	27 May 2010	Georgi Georgiev (no. 22381/05)	Link
Poland	01 June 2010	Derda (no. 58154/08)	Link
Portugal	27 May 2010	Alves Ferreira (no. 30358/08)	Link
Russia	03 June 2010	Lelik (no. 20441/02)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 3 to 16 May 2010**.

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

State	*Date*	*Case Title*	*Alleged violations (Key Words)*	*Decision*
Albania and Greece	04 May 2010	Plepi and Others (no 11546/05; 33285/05; 33288/05) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 8 (Greek authorities' refusal to transfer them to Albania with a view to serving the rest of their sentence in their country of origin, after having initially consented to the transfer, entailed a *de facto* longer period of imprisonment compared to the time which they would have had to serve had the transfer taken place), Art. 6 §§ 1 and 3 (e) (1 (failure to provide the applicants with adequate interpreters)	Partly incompatible *ratione personae* (concerning claims under Art. 6 § 1), partly incompatible *ratione materiae* (concerning claims under Art. 8), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 6 §§ 1 and 3 (e)
Bulgaria	04 May 2010	Kiryakov (no 36504/05) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings) and Art. 13 (lack of an effective remedy)	Struck out of the list (unilateral declaration of the Governments)
Bulgaria	04 May 2010	Srebarnov (no 36321/05) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Bulgaria	04 May 2010	Georgiev (no 1694/06) link	Alleged violation of Art. 6 § 1 (excessive fees in proceedings for damages against the State under the State and Municipalities Responsibility for Damage Act)	Idem.
Bulgaria	04 May 2010	Valova (no 29322/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Bulgaria	04 May 2010	Lazarov (no 42923/04) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings) and Art. 13 (lack of an effective remedy)	Idem.

Bulgaria	04 May 2010	Shterev (no 20295/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings in which the applicant challenged of lawfulness of his dismissal)	Idem.
Bulgaria	04 May 2010	Kostadinov (no 2494/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Bulgaria	04 May 2010	Ivanova and Others (no 19434/04) link	The application concerned the State's continued failure to provide the first applicant with compensation for her property expropriated in 1987	Idem.
Bulgaria	04 May 2010	Popov (no 36277/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Bulgaria	04 May 2010	Milushevi (no 23601/05) link	Idem.	Idem.
Bulgaria	11 May 2010	Fileva (no 3503/06) link	Alleged violation of Art. 6 §§ 1 and 2 (lack of effective access to a court to seek damages for a wrongful conviction on account of the resumption of the criminal proceedings against the applicant, by virtue of the decision of the Plovdiv appellate public prosecutor's office and excessive length of proceedings), Art. 13 (lack of an effective remedy), Art. 34 (pressure on the applicant because of her intention to lodge an application with the Court)	Partly adjourned (concerning claims under Art. 6 § 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	11 May 2010	Kostovi (no 33497/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Art. 13 (lack of an effective remedy)	Struck out of the list (unilateral declaration of the Government)
Bulgaria	11 May 2010	Lazarov (no 8442/05) link	Idem.	Idem.
Cyprus	06 May 2010	Meliniotis (no 35194/06) link	Alleged violation of Art. 6 (excessive length and unfairness of proceedings, non-enforcement of a judgment in the applicant's favour), Art. 1 of Prot. 1 (failure of the Municipal Council to pay to the applicant compensation for unfair dismissal)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Finland	04 May 2010	Kohi and Kuisma (no 29383/09) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Finland	11 May 2010	Paronen (no 35658/08) link	Alleged violation of Art. 6 § 1 (excessive length of compensation and criminal proceedings)	Partly struck out of the list (friendly settlement reached concerning the length of compensation proceedings), partly inadmissible for non-respect of the six-month requirement (concerning the remainder of the application)
Georgia	04 May 2010	Sultanishvili (no 40091/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (quashing of a final judgment in the applicant's favour and the length of the reopened proceedings)	Incompatible *ratione materiae*
Germany	04 May 2010	Massmann (no 11603/06) link	Alleged violation of Art. 6 § 1 (infringement of the right to a fair trial on the ground that during the criminal proceedings before the Augsburg Regional Court at issue the applicant did not have access to the files in preliminary proceedings conducted separately by the	Inadmissible as manifestly ill-founded (the decision process applied before the domestic courts complied, as far as possible, with the requirements of adversarial proceedings and equality of arms and incorporated adequate safeguards to protect the interests

			Düsseldorf prosecution authorities dealing with identical matters)	of the accused)
Germany	04 May 2010	Effecten Spiegel Ag (no 38059/07) link	Alleged violation of Art. 10 § 1 (infringement of freedom of the press on account of domestic courts' decisions ordering the applicant company to refrain from publishing certain statements)	Inadmissible as manifestly ill-founded (the reasons given by the domestic courts in support of their decisions were "relevant and sufficient" within the meaning of its case-law and that the decisions ordering the applicant company to refrain from disseminating the statements at stake were not disproportionate to the legitimate aim pursued)
Germany	04 May 2010	El Motassadeq (no 28599/07) link	Alleged violation of Art. 6 (unfairness of criminal proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Ireland	04 May 2010	Stapleton (no 56588/07) link	Alleged violation of Art. 6 (the decision of the Irish courts to surrender the applicant to the UK would violate Article 6 and, notably, the right to a fair trial within a reasonable time), Art. 8 and Art. 2 of Prot. 4 (the applicant obliged to reside outside Ireland and away from his family)	Idem.
Latvia	11 May 2010	Savičs (no 17892/03) link	In particular alleged violations of Articles 3, 5, 6, 13 (the detention regime in Daugavpils prison for prisoners serving life sentences; ill-treatment by the police as well as during administrative arrest), Articles 6 § 3 (c), 13 and 14 (lack of access to a lawyer during the preliminary investigation and during the trial before the Zemgale Regional Court), Articles 7, 14 and 34 and Art. 4 of Prot. 7	Partly adjourned (concerning the detention regime in Daugavpils prison for prisoners serving life sentences), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Latvia	11 May 2010	Ruža (no 33798/05) link	The application concerned the lack of medical assistance in Daugavpils prison, excessive length and unfairness of criminal proceedings, excessive length of pre-trial detention)	Partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention), partly inadmissible for non-exhaustion of domestic remedies
Liechtenstein	11 May 2010	Steck-Risch and Others (no 29061/08) link	Alleged violation of Art. 6 (infringement of the right to a fair trial on account of domestic courts' decision not to reopen the compensation proceedings)	Incompatible *ratione materiae* (the Court was not competent to examine the applicants' complaint)
Poland	11 May 2010	Klimczak (no 15666/09) link	Alleged violation of Art. 6 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Poland	11 May 2010	Lipczyński (no 38061/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention)	Idem.
Poland	11 May 2010	Gil (no 7570/08) link	Alleged violation of Art. 6 (excessive length of criminal proceedings)	Idem.
Poland	11 May 2010	Kalinowski (no 37224/06) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 (unfairness and excessive length of criminal proceedings)	Partly inadmissible as manifestly ill-founded (sufficient and relevant reasons to justify the length of the pre-trial detention), partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings), and partly inadmissible as manifestly ill-founded (the applicant's failure to substantiate his complaints concerning the unfairness of the criminal proceedings)
Poland	11	Kalita (no	Alleged violation of Art. 6 § 1 and	Partly struck out of the list

	May 2010	49194/08) link	Art. 1 of Prot. 1 (excessive length of enforcement proceedings), Art. 13 (lack of an effective remedy)	(unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (failure to substantiate the complaints concerning the remainder of the application)
Poland	11 May 2010	Leimert (no 17716/09) link	In particular alleged violation of Art. 2 (the applicant's son's death and lack of an effective investigation in that regard)	Struck out of the list (friendly settlement reached)
Poland	11 May 2010	Oksentowski (no 35345/08) link	Alleged violation of Art. 6 (unfairness of proceedings and deprivation of an effective access to a court since the legal-aid lawyer had refused to prepare a cassation appeal to the Supreme Court)	Partly struck out of the list (unilateral declaration of the Government concerning the lack of access to a court), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Poland	11 May 2010	Sadowski (no 5127/09) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (unilateral declaration of the Government)
Poland	11 May 2010	Chmiel (no 39620/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention)	Struck out of the list (friendly settlement reached)
Romania	11 May 2010	Bostan (no 12466/02) link	The application concerned the deprivation of the right of access to a court	Struck out of the list (the applicant no longer wished to pursue his application)
Romania	04 May 2010	Ruscu (no 34749/03) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings)	Idem.
Romania	11 May 2010	Wachmann-Gugui (no 37161/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy) and Art. 1 of Prot. 1 (the State's failure to protect the applicant's properties)	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)
Romania	11 May 2010	Grigoriu and Others (no 3277/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicants' favour)	Struck out of the list (the applicants no longer wished to pursue their application)
Russia	11 May 2010	Anisimova and Others (no 3215/04) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of judgments in the applicants' favour), Art. 13 (lack of an effective remedy)	Struck out of the list (unilateral declaration of the Government)
Russia	06 May 2010	Kuryanovich (no 21670/07) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Russia	06 May 2010	Bolgov (no 28780/03) link	Alleged violation of Art. 6 (excessive length of criminal proceedings), Art. 13 (lack of an effective remedy) and Art. 1 of Prot. 1 (lack of compensation for damage caused to the applicant's health due to the excessive length of those proceedings)	Partly incompatible *ratione materiae* (concerning claims under Art. 6), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (lack of an arguable claim concerning the claim under Art. 13)
Russia	11 May 2010	Tasuyeva (no 23507/06) link	The application concerned in particular the applicant's brother's disappearance and domestic	Struck out of the list (applicant no longer wished to pursue her application)

			authorities' failure to conduct an effective investigation	
Russia	11 May 2010	Raad Mazgar (no 21455/04) link	Alleged violation of Art. 5 §§ 1, 2 and 4 (the applicant's arrest during a random police check in the street and his placement in a special detention centre for vagrants and beggars for ten days)	Struck out of the list (friendly settlement reached)
Serbia	11 May 2010	Zarubica (no 47250/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy)	Idem.
Sweden	04 May 2010	Gashi and Others (no 61167/08) link	Alleged violation of Art. 3 (the authorities' refusal to grant the applicants with asylum)	Inadmissible as manifestly ill-founded (the applicants failed to substantiate that they would face a real risk of being subjected to ill-treatment if deported to Kosovo)
the Czech Republic	04 May 2010	Peterka (no 21990/08) link	Alleged violation of Art. 14 in conjunction with Art. 1 of Prot. 1 (discriminatory deprivation of retirement allocation)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
the Czech Republic	04 May 2010	Pravdová (no 30998/05) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings)	Struck out of the list (unilateral declaration of the Government)
the Czech Republic	04 May 2010	Vinkler and Vinklerová (no 1937/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Idem.
the Czech Republic	11 May 2010	Hanzlik and Others (no 14422/05; 20179/05) link	In particular, alleged violation of Art. 14 in conjunction with Art. 1 of Prot. 1 (domestic authorities' wrongful appreciation of the law depriving the applicants of their military retirement pensions), Art. 6 § 1 (unfairness of proceedings)	Partly adjourned (concerning the unfairness 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)
the Czech Republic	11 May 2010	Opatství Staré Brno Řádu sv. Augustina (no 29335/06 ; 29801/06) link	Alleged violation of Art. 6 § 1 (lack of access to a court and unfairness of proceedings), Art. 1 of Prot. 1 (State's failure to protect the applicant's properties), Art. 14 (different treatment of the same cases)	Partly incompatible *ratione materiae* (concerning claims under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (lack of an arguable claim under Art. 14 and no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
the Czech Republic	11 May 2010	Skoupá (no 14728/04) link	Alleged violation of Art. 1 of Prot. 1 (the State's failure to protect the applicant's properties), Art. 6 § 1 (excessive length and unfairness of proceedings)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1), partly inadmissible for non-respect of the six-month requirement (concerning the length of proceedings)
"the former Yugoslav Republic of Macedonia"	04 May 2010	Sulja (no 22184/08) link	Alleged violations of Articles 2, 3 and 13 (death of the applicant's common-law partner while in police custody)	Struck out of the list (friendly settlement reached)
"the former Yugoslav Republic of Macedonia"	04 May 2010	Trpeski and Others (no 11114/04) link	Alleged violation of Art. 1 of Prot. 1 (deprivation of possessions of the applicants shares in a bank, alleged errors of facts and law, in particular concerning the transfer of the bearer shares), Art. 6 (unfairness of proceedings)	Partly inadmissible for non-respect of the six-month requirement (concerning the first set of proceedings and the proceedings concerning the revocation of the first applicant's licence to manage the Bank), partly inadmissible as manifestly ill-founded (concerning the second set of proceedings), partly incompatible *ratione materiae* (concerning the proceedings before the Constitutional Court)
the Netherlands	04 May 2010	Dala (no 47880/07) link	Alleged violation of Articles 3, 8 and 14 (violation of alleged articles due to the applicant's deportation to	Struck out of the list (the Minister of Justice had decided to grant the applicant a residence permit to

			Angola)	stay as an alien who, through no fault of his own, is unable to leave the Netherlands)
the Netherlands	04 May 2010	Schuitemaker (no 15906/08) link	Alleged violation of Art. 4 (the Social Assistance Act forced the applicant to obtain and accept any kind of labour, irrespective of the question whether it would be suitable or not, by reducing her benefits if she refused to do so)	Inadmissible as manifestly ill-founded (the applicant failed to submit or substantiate anything that could lead the Court to find that what was required of her attained the threshold of what constitutes forced and compulsory labour within the meaning of Article 4)
the United Kingdom	04 May 2010	Hickey (no 39492/07) link	Alleged violation of Art. 1 of Prot. 1 and Art. 8 (deprivation of property on account of the deduction from the compensation payable to the applicants of the costs of board and lodging whilst imprisoned), Art. 14 (disparity in the approaches of the assessors who determined the applicants' compensation claims and that of their co-convicted)	Inadmissible for non-exhaustion of domestic remedies
the United Kingdom	04 May 2010	Watts (no 53586/09) link	Alleged violation of Articles 2, 3 and 8 (the applicant's involuntary transfer to a new residential care home allegedly constituted a violation of her right to life), Art. 6 (lack of the opportunity to appeal against the closure of a care home), Art. 14 (discrimination against disabled residents of care homes)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
the United Kingdom	11 May 2010	Lame (no 30739/08) link	Alleged violation of Art. 8 (the applicant's removal from the United Kingdom would have constituted a disproportionate interference with his right to respect for his private life), Art. 14 (discrimination in the enjoyment of his rights under Article 8 because the family amnesty policy had treated him differently from accompanied minors who had claimed asylum in the United Kingdom prior to 2 October 2000)	Struck out of the list (the applicant no longer has a complaint which falls within the ambit of alleged Articles as he had been granted 'Indefinite Leave to Remain' in the United Kingdom)
the United Kingdom	11 May 2010	Partheepan (no 51382/09) link	Alleged violation of Articles 2, 3, 5 and 14 (violation of the alleged articles if deported to Sri Lanka)	Struck out of the list (applicant no longer wished to pursue his application)
the United Kingdom	04 May 2010	Wangare Njuguna (no 41856/07) link	Alleged violation of Art. 8 (if expelled to Kenya there was a risk of death and suffering while the applicant's application for entry clearance to join her partner was determined)	Struck out of the list (applicant no longer wished to pursue his application subsequent to the grant of indefinite leave to remain in the United Kingdom)
Turkey	11 May 2010	Altin and Others (no 42316/04) link	Alleged violation of Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour had also led to a reduction in the value of the additional compensation awarded by the domestic court in view of the high inflation rates)	Inadmissible as manifestly ill-founded (the applicants have not shown sufficient diligence in order to obtain the payment in question in due time)
Turkey	11 May 2010	Atilla and 57 other applications (no 18139/07 etc.) link	Alleged violation of Articles 9 and 10 (violation of the applicants' freedom of thought and expression on account of the disciplinary punishment which had been imposed on them because they had launched a hunger strike had)	Inadmissible as manifestly ill-founded (proportionate interference to the legitimate aimed pursued, namely the prevention of disorder)
Turkey	11 May 2010	Yilmaz and Akmeşe and Others (no 27737/07; 18375/09; 26070/09)	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the length of proceedings and the lack of an effective remedy), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)

		link		
Turkey	11 May 2010	Sayan and 6 other applications (no 846/07; 8359/07) link	All applicants alleged violations of Art. 6 § 1 (excessive length of compensation proceedings) and Art. 1 of Prot. 1 (financial loss of the compensation due to the depreciation of the national currency)	Partly adjourned (concerning the length of proceedings and claims under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainders of the applications)
Turkey	11 May 2010	Çoklar (no 8937/04) link	Alleged violation of Art. 6 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Turkey	04 May 2010	Moraner (no 27559/06) link	Alleged violation of Art. 3 (ill-treatment while in police custody) and Art. 6 § 1 (excessive length of criminal proceedings)	Partly adjourned (concerning the length of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 3)
Turkey	04 May 2010	Bayav (no 7263/03) link	Alleged violation of Art. 6 § 3 c) (lack of legal assistance while in police custody)	Inadmissible for non-respect of the six-month requirement)
Turkey	04 May 2010	Yiğit and Others (no 24870/06; 67434/09) link	Alleged violation of Art. 5 §§ 3-5 (excessive length of detention, lack of an effective remedy to challenge the detention and lack of adequate compensation in respect of the length of detention), Art. 6 §§ 1, 3 (excessive length and unfairness of proceedings, lack of legal assistance in detention), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning excessive length of detention, lack of adequate compensation in respect of the length of detention, the length of proceedings and the lack of an effective remedy), partly inadmissible for non-respect of the six-month requirement (concerning Mr. Yiğit's claims under Art. 5 §§ 3, 4 and 5), and partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 6 §§ 1 and 3)
Turkey	11 May 2010	Yildirim and Others (no 21528/06) link	Alleged violation of Art. 1 of Prot. 1 (lack of adequate compensation due to expropriation of the applicants' property)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Turkey	04 May 2010	Ertuğrul (no 51271/07) link	Alleged violation of Art. 6 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
Turkey	04 May 2010	Savaş (no 51698/07) link	Idem.	Idem.
Turkey	04 May 2010	Keskin (no 51699/07) link	Idem.	Idem.
Turkey	04 May 2010	Acar (no 51702/07) link	Idem.	Idem.
Turkey	04 May 2010	Tarim (no 53854/07) link	Idem.	Idem.
Turkey	04 May 2010	Şahin (no 55003/07) link	Idem.	Idem.
Turkey	04 May 2010	Yildirim (no 55553/07) link	Idem.	Idem.

C. The communicated cases

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

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

- on 31 May 2010 : link
- on 7 June 2010 : link

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

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

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

Communicated cases published on 31 May 2010 on the Court's Website and selected by the NHRS Unit

The batch of 31 May 2010 concerns the following States (some cases are however not selected in the table below): Bulgaria, Georgia, Germany, Greece, Italy, Latvia, Montenegro, Poland, Romania, Russia, Slovenia, Switzerland, the Czech Republic, the Netherlands, the United Kingdom, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Bulgaria	12 May 2010	Pashov and Others no. 20875/07	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by the police officers – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 6 § 1 – Excessive length of proceedings – Alleged violation of Art. 1 of Prot. 1 – Impossibility to obtain execution of the judgment in the applicants' favour
Bulgaria	11 May 2010	Vakrilov no. 18698/06	Alleged violation of Art. 2 – State's obligation to comply with its duties to protect life through regulatory measures and by setting up an effective judicial system capable of holding accountable those responsible for the death of patients in the care of the medical profession concerning the death of the applicant's mother
Georgia	12 May 2010	Gamrekelas-hvili no. 6439/10	Alleged violation of Articles 2 and 3 –The applicant's infection with tuberculosis in prison – Lack of adequate treatment for the applicant's tuberculosis in prison – Domestic courts' refusal to suspend the applicant's prison sentence in view of his critical state of health
Poland	11 May 2010	Wilkowicz no. 42927/07	Alleged violation of Art. 8 (positive obligation) – Authorities' failure to provide the applicant with an "effective and accessible procedure" enabling him to have access to his personal file which allegedly proved that he was a secret collaborator, and thus could not refute the allegation made against him – Alleged violation of Art. 13 in conjunction with Article 8 – Lack of an effective remedy
Romania	12 May 2010	Sercau no. 41775/06	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment by a police officer at Balş police station – Lack of an effective investigation
Russia	12 May 2010	Abakarova no. 16664/07	Alleged violations of Art. 2 (substantive and procedural) – Death of the applicant's relatives during the shelling of Katyr-Yurt village – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Turkey	12 May 2010	Yavuzkaplan no 13567/08	Alleged violations of Art. 2 (substantive and procedural) – Death of the applicant's son after allegedly being ill-treated during his arrest and transport at the police station – Lack of an effective investigation
Turkey	10 May 2010	Aksoy and Cingöz no. 32096/09	Alleged violation of Art. 2 (substantive and procedural) – Disappearance of the applicants' relatives – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy – Has there been a violation of Article 5 of the Convention on account of the disappearances?
Ukraine	11 May 2010	Gorovenko and Bugara nos. 36146/05 and	Alleged violation of Art. 2 (positive obligation) – Killing of the applicants' relatives by a State agent – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy

		42418/05	
Ukraine	11 May 2010	Koval and Others no. 22429/05	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violations of Art. 8 and Art. 1 of Prot. 1 – Unlawful seizure of the applicants' properties

Communicated cases published on 7 June 2010 on the Court's Website and selected by the NHRS Unit

The batch of 7 June 2010 concerns the following States (some cases are however not selected in the table below): Austria, France, Germany, Latvia, Norway, Portugal, Russia, Serbia, Slovakia, the Czech Republic, the Netherlands, the United Kingdom and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Russia	18 May 2010	Rzhavin no. 33177/07	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 5 § 1 – Unlawful detention

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

Entry into force of Protocol No. 14 (01.06.2010)

Protocol No. 14, whose aim is to guarantee the long-term efficiency of the Court by optimising the filtering and processing of applications entered into force on 1 June 2010. This text provides in particular for new judicial formations to deal with the simplest cases, for a new admissibility criterion (that of "significant disadvantage") and for judges' terms of office to be extended to nine years without the possibility of re-election. Press Release; Text of the Convention

The Court received the Franklin D. Roosevelt Four Freedoms Award (31.05.2010)

On 29 May 2010 President Costa went to Middelburg, where he received, on the Court's behalf, the International Franklin D. Roosevelt Four Freedoms Award in the presence of Her Majesty Queen Beatrix of the Netherlands. Press Release; speech of President Costa; Watch the ceremony

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers held its last "human rights" meeting from 1 to 3 June 2010 (the 1086th meeting of the Ministers' deputies).

Adopted documents during the meeting:
Decisions:

- CM/Del/Dec(2010)1086immediatE / 07 June 2010
  1086th (DH) meeting, 1-3 June 2010 – Decisions adopted at the meeting

- CM/Del/Dec(2010)1086/1 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 25781/94 Cyprus against Turkey, judgment of 10/05/01 – Grand Chamber

- CM/Del/Dec(2010)1086/2 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 46347/99 Xenides-Arestis, judgments of 22/12/2005, final on 22/03/2006 and of 07/12/2006, final on 23/05/2007

- CM/Del/Dec(2010)1086/3 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 15318/89 Loizidou, judgment of 18/12/96 (merits)

- CM/Del/Dec(2010)1086/4 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 4 cases against Turkey – 28490/95 Hulki Güneş, judgment of 19/06/03, final on 19/09/03 – 72000/01 Göçmen, judgment of 17/10/2006, final on 17/01/2007 and 46661/99 Söylemez, judgment of 21/09/2006, final on 21/12/2006 25060/02 – Erdal Aslan, judgment of 02/12/2008, final on 02/03/2009

- CM/Del/Dec(2010)1086/5 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 39437/98 Ülke, judgment of 24/01/2006, final on 24/04/2006

- CM/Del/Dec(2010)1086/6 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.2 – 3 cases concerning the dissolution or refusal to register associations established by persons belonging to Muslim minority of Western Thrace (Greece)

- CM/Del/Dec(2010)1086/7 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 1 case against Italy – 246/07 Ben Khemais, judgment of 24/02/2009, final on 06/07/2009

- CM/Del/Dec(2010)1086/8 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – 5 cases of non-enforcement of final domestic decisions concerning the right of the applicants to compensation (Albania)

- CM/Del/Dec(2010)1086/9 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.2 – 1 case against Azerbaijan – 22684/05 Muradova, judgment of 02/04/2009, final on 02/07/2009

- CM/Del/Dec(2010)1086/10 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.2 – 5 cases against Bosnia and Herzegovina

- CM/Del/Dec(2010)1086/12 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 2.1 – 1 case against Bosnia and Herzegovina – 27912/02 Suljagić, judgment of 03/11/2009, final on 03/02/2010

- CM/Del/Dec(2010)1086/13 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.2 – 12 cases concerning failure or substantial delay by the administration in abiding by final domestic decisions (Serbia)

- CM/Del/Dec(2010)1086/14 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 - Section 4.3 – 1 case against Bosnia and Herzegovina – 27996/06 Sejdić and Finci, judgment of 22/12/2009 – Grand Chamber

- CM/Del/Dec(2010)1086/15 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 - Section 4.3 – 1 case against Moldova 476/07 and Olaru and others, judgment of 28/07/2009, final on 28/10/2009

- CM/Del/Dec(2010)1086/16 / 04 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 211 cases against Russian Federation 33509/04 Burdov No. 2 and Timofeyev group

- CM/Del/Dec(2010)1086/17 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 110 cases concerning security forces in the Chechen Republic (Russian Federation) Khashiyev and Akayeva Group

- CM/Del/Dec(2010)1086/18 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 1 case against the United Kingdom 74025/01 Hirst No. 2, judgment of 06/10/2005 – Grand Chamber

- CM/Del/Dec(2010)1086/19 / 07 June 2010
  1086th DH meeting – 1-3 June 2010 – Section 4.3 – 353 cases against Ukraine 40450/04 Yuriy Nikolayevich Ivanov, judgment of 15/10/2009, final on 15/01/2010 and Zhovner group

Resolutions:

- CM/Del/Dec(2010)1086volresE / 07 June 2010
  1086th meeting (DH), 1-3 June 2010 – Resolutions adopted

- CM/ResDH(2010)83E / 07 June 2010
  Interim Resolution – Execution of the judgements of the European Court of Human Rights in Ben Khemais against Italy (Application No. 246/07, judgment of 24 February 2009, final on 6 July 2009)

B. General and consolidated information

Please note that useful and updated information (including developments occurred between the various Human Rights meetings) on the state of execution of the cases classified by country is provided:
http://www.coe.int/t/e/human%5Frights/execution/03%5FCases/
For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights:
http://www.coe.int/t/dghl/monitoring/execution/default_en.asp
The simplified global database with all pending cases for execution control (Excel document containing all the basic information on all the cases currently pending before the Committee of Ministers) can be consulted at the following address:
http://www.coe.int/t/e/human_rights/execution/02_Documents/PPIndex.asp#TopOfPage

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

A. European Social Charter (ESC)

The European Social Charter and Equality between Women and Men (24-25.05.2010)
The Conference of Ministers responsible for Equality between Women and Men held in Baku from 24 to 25 May 2010, was attended by Mrs Jacqueline MARECHAL, First Vice President of the Governmental Committee of the Social Charter. On this occasion Mrs MARECHAL spoke of the way in which the legal framework of the Charter allows for the safeguard of a number of economic and social rights pertaining to equality between women and men. Presentation of Mrs Maréchal (French only)

Seminar in St. Petersburg on the European Convention of Human Rights and the European Social Charter (2-3.06.2010)

In the framework of a joint programme with the European Union, a training session for Russian prosecutors was held in St. Petersburg from 2 to 3 June 2010. On this occasion, Mrs Ana RUSU of the Department of the European Social Charter gave a presentation on the Revised European Social Charter as a complement to the European Convention of Human Rights. Programme

Conference in Graz on Council of Europe human rights monitoring bodies (18-19.06.2010)

A conference entitled "Creating synergies and learning from each other: strengths and weaknesses of Council of Europe expert bodies monitoring human rights" was held in Graz from 18 to 19 June 2010. This conference was attended by Mr Henrik KRISTENSEN, Deputy Head of the Department of the ESC. Programme

Conference on Actions and Collective strategies in the field of Human Rights, Strasbourg (21-22.06.2010)

Mr Petros STANGOS, Member of the European Committee of Social Rights gave a presentation on the decisions of the Committee and their impact at a Conference entitled "Actors, collective strategies and the European field of Human Rights". Programme

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

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

The next session of the European Committee of Social Rights will be held from 21-25 June 2010 in Strasbourg.

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

Council of Europe anti-torture Committee visits Armenia (27.05.2010)

A delegation of the CPT recently carried out a 12-day visit to Armenia. The visit, which began on 10 May 2010, was the CPT's third periodic visit to Armenia. The delegation assessed progress made since previous visits and the extent to which the Committee's recommendations have been implemented, in particular in the areas of initial detention by law enforcement agencies, imprisonment and psychiatry. Further, the delegation visited for the first time in Armenia a social care home. In the course of the visit, the CPT's delegation held consultations with Gevork DANIELYAN, Minister of Justice, Nikolay ARUSTAMYAN, Deputy Minister of Justice, Hunan POGHOSYAN, First Deputy Head of the Police Service,Artur OSIKYAN, Deputy Head of the Police Service, Aleksandr GHUKASYAN, Deputy Minister of Health, and Ara NAZARYAN, Deputy Minister of Defence, as well as with other senior Government officials. It also had a meeting with Aghvan HOVSEPYAN, Prosecutor General,

and Andranik MIRZOYAN, Head of the Special Investigation Service. Further, it met Armen HARUTYUNYAN, Human Rights Defender, and members of his team. Discussions were also held with representatives of non-governmental and international organisations active in areas of concern to the CPT. At the end of the visit, the delegation presented its preliminary observations to the Armenian authorities.

Council of Europe anti-torture Committee visits Albania (28.05.2010)

A delegation of the CPT carried out a periodic visit to Albania from 10 to 21 May 2010. It was the CPT's ninth visit to this country. In the course of the visit, the CPT's delegation reviewed the measures taken by the Albanian authorities to implement the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment of persons deprived of their liberty by the police and to conditions of detention in police detention facilities. The delegation also examined in detail various issues related to prisons and pre-trial detention centres, including health-care services provided to prisoners and the situation of juveniles. In addition, the delegation visited a psychiatric hospital and, for the first time, three "supported homes" for disabled patients.

The delegation had fruitful consultations with Lulzim BASHA, Minister of the Interior, Bujar NISHANI, Minister of Justice, Petrit VASILI, Minister of Health, Albert GAJO, Deputy Minister of Health, Spiro KSERA, Minister of Labour, Social Affairs and Equal Opportunities, and Gazmend DIBRA, Director General of Prisons, as well as with other senior officials of the relevant ministries. It also met representatives of the Office of the People's Advocate, the OSCE Presence in Albania, the European Assistance Mission to the Albanian Justice System (EURALIUS) and non-governmental organisations active in areas of concern to the CPT. At the end of the visit, the delegation presented its preliminary observations to the Albanian authorities.

C. European Commission against Racism and Intolerance (ECRI)

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

Advisory Committee: adoption of three opinions (28.05.2010)

The Advisory Committee on the Framework Convention for the Protection of National Minorities adopted three country-specific opinions under the third cycle of monitoring the implementation of this convention in States Parties. The opinions on Germany and the Slovak Republic were adopted on 27 May the Opinion on Croatia on 28 May. They are restricted for the time-being. These three opinions will now be submitted to the Committee of Ministers, which is to adopt conclusions and recommendations.

Council of Europe report on Kosovo†: Inter-ethnic relations to be improved; minority protection laws to be implemented (02.06.2010)

The Council of Europe Advisory Committee on the FCNM published on 2 June an Opinion on Kosovo*, in which it acknowledges improvements in the legal framework on minority protection. However, it also expresses its concern about shortcomings in the implementation of legislation and policies, access to justice of persons belonging to national minorities, education and inter-ethnic relations. The Advisory Committee adopted this Opinion in accordance with the Agreement between the Council of Europe and the United Nations Interim Administration Mission in Kosovo (UNMIK), and following reports provided by the authorities and NGOs, and a visit of the Advisory Committee to Kosovo in April 2009. UNMIK submitted Comments on the Opinion in May 2010. Based on the above-mentioned documents, the Council of Europe Committee of Ministers is expected to adopt a resolution including its final conclusions and recommendations on the implementation of the Convention in Kosovo.

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

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

E. Group of States against Corruption (GRECO)

Decisions of the 47th Plenary Meeting in Strasbourg (7-11.06.2010)

Link to the document

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

On-site evaluation visit to the Czech Republic completed (02.06.2010)

A MONEYVAL team of evaluators visited the Czech Republic from 22 to 29 May 2010 under the fourth evaluation round. The visit was coordinated by the Ministry of Finance (Financial Analytical Unit). The team met with the Deputy Minister of Finance Mr Jan MALEK as well as with representatives from 23 organisations and agencies including law enforcement agencies, government departments, financial services supervisors and the private sector. The meetings were held in Prague. A key findings document was discussed with the Czech 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 34th Plenary meeting (6 - 10 December 2010).

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

GRETA - 6th meeting (1-4.06.2010)

The 6th meeting of GRETA was held on 1-4 June 2010 at the Council of Europe in Strasbourg. At this meeting, in the framework of the first round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties, GRETA continued its discussion concerning the structure and preparation of GRETA reports, the preparation of country visits and requests for information addressed to civil society. In addition, in order to hold an exchange of views on the role of NGOs in the evaluation procedure of the implementation of the Convention, GRETA had invited the following international NGOs active in the field of action against trafficking in human beings to a hearing: Amnesty International, Anti-Slavery International and La Strada International. List of items discussed and decisions taken (PDF)

Sweden 28th state to become Party to the Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe Convention on Action against Trafficking in Human Beings entered into force on 1 February 2008. The Convention was ratified by Sweden on 31 May 2010 and will enter into force for this state on 1 September 2010.

Part IV: The inter-governmental work

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

27 May 2010

Korea, **Mexico**, **Portugal** and **Slovenia** have signed the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127).

Denmark, **Finland**, **France**, **Iceland**, **Italy**, **Korea**, **Mexico**, **the Netherlands**, **Norway**, **Portugal**, **Slovenia**, **Sweden**, **Ukraine** and **the United Kingdom** have signed the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (CETS No. 208).

31 May 2010

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

1 June 2010

Entry into force of Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (CETS No. 194).

2 June 2010

Bulgaria signed 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).

3 June 2010

Spain ratified the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (ETS No. 181), and the Convention on Cybercrime (ETS No. 185).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/ResCMN(2010)7E / 26 May 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 on the Framework Convention for the Protection of National Minorities, and appointment of an ordinary member of the Advisory Committee in respect of a casual vacancy in respect of Ukraine (Adopted by the Committee of Ministers on 26 May 2010 at the 1085th meeting of the Ministers' Deputies)

CM/RecChL(2010)5E / 26 May 2010
Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Slovenia (Adopted by the Committee of Ministers on 26 May 2010 at the 1085th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Slovenia: publication of a report on minority languages (27.05.2010)

The Committee of Ministers has made public on 27 May the report on the application of the European Charter for Regional or Minority Languages in Slovenia. On the basis of this report, the Council of Europe urges Slovenia to improve the possibilities to use Hungarian and Italian in the provision of public services, in economic and social activities, as well as in relations with the State administration.

Declaration on "parliamentary elections" held in Nagorno Karabakh - Declaration by the Chairman of the Committee of Ministers, Minister Antonio Miloshoski (26.05.2010)

The "parliamentary elections" organised in Nagorno Karabakh on 23 May are not recognised by the international community. The Chairmanship of the Committee of Ministers of the Council of Europe

reiterates its full support to the OSCE Minsk Group and its Co-Chairmen in their efforts towards a settlement of the Nagorno Karabakh conflict. More information on the Chairmanship

Meeting of the Ministers' Deputies (27.05.2010)

At their meeting on 26 May, the Ministers' Deputies invited the authorities of Bosnia and Herzegovina to implement the decisions related to the execution of the judgment delivered by the Court of Human Rights in the case of *Sejdić and Finci*. The Deputies also gave terms of reference to the Steering Committee for Human Rights to elaborate a legal instrument setting out the modalities of accession of the European Union to the European Convention on Human Rights.

Council of Europe to become observer at ICANN, Internet addresses assignment body (31.05.2010)

The Committee of Ministers has adopted a Declaration asking the Secretary General to make arrangements for the Council of Europe to become an observer at the Governmental Advisory Committee (GAC) of the International Corporation for Assigned Names and Numbers (ICANN), which coordinates the assignment of Internet addresses throughout the world. It also encouraged all Council of Europe member States to actively participate in this body. Declaration

The Chairman of the Committee of Ministers at the Rio Forum of the Alliance of Civilizations (31.05.2010)

On 28-29 May 2010, the Chairman of the Committee of Ministers, Minister of Foreign Affairs Antonio Miloshoski participated in the 3rd Forum of the UN Alliance of Civilizations (AoC), which took place in Rio de Janeiro at the invitation of the Brazilian government. In particular, he took the floor at the ministerial meeting of the "group of friends" of the AoC, which comprises some 120 States or international organisations, among which the Council of Europe. The Forum has been a powerful network of over 2000 political and corporate leaders, mayors, civil society activists, youth, journalists, foundations, international organisations, and religious leaders, who came together with a view to developing joint actions to improve relations across cultures, combat prejudice and build the conditions for long-term peace. Speech by Minister Antonio Miloshoski; Link to the Rio Forum website

Terrorist attack in Turkey: reactions (01.06.2010)

"We condemn yesterday's terrorist attack on the Iskenderun Naval Base in Turkey, and are deeply saddened at the loss of life it caused," the Chairman of the Committee of Ministers, Antonio Miloshoski, and the Assembly President, Mevlüt Çavusoglu declared on 1 June.

Antonio Miloshoski: "Israel's military operation is a great tragedy" (01.06.2010)

"I have learned, with great dismay, of the action conducted by Israeli naval forces against a convoy trying to deliver humanitarian aid to Gaza. The death and injuries caused to a number of civilians during this operation is a great tragedy," the Chairman of the Committee of Ministers said in his statement on 1 June.

Foreign Minister and Chairman of Council of Europe Committee of Ministers, Antonio Miloshoski, meets Foreign Minister of Bosnia and Herzegovina, Sven Alkalaj (01.06.2010)

Acting in his capacity as Chairman of the Committee of Ministers of the Council of Europe, the Minister of Foreign Affairs Antonio Miloshoski met in Sarajevo on 1 June the Minister of Foreign Affairs of Bosnia and Herzegovina, Sven Alkalaj. At the meeting, Minister Miloshoski presented the expectations of the Committee of Ministers on the necessity for constitutional reforms in Bosnia and Herzegovina, which would bring the constitutional legislation of this member state in line with the standards of the Organisation. "The Council of Europe and the Macedonian Chairmanship hope that the constitutional reforms could be implemented after the parliamentary elections in Bosnia and Herzegovina in October 2010", stated the Chairman. He pointed out that the Committee of Ministers would not like to impose solutions to Bosnia and Herzegovina which the country would find unacceptable. Instead it would like to develop relations of partnership and encourage all political factions in Bosnia and Herzegovina to adopt themselves responsibly a decision to implement the constitutional reforms.

Part V: The parliamentary work

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

Resolution 1733: Reinforcing measures against sex offenders (Text adopted by the Standing Committee, acting on behalf of the Assembly on 21 May 2010)

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

- *Countries*

PACE co-rapporteurs welcome Ukrainian authorities' pledge to honour remaining Council of Europe commitments (04.06.2010)

Renate Wohlwend (Liechtenstein, EPP/CD) and Mailis Reps (Estonia, ALDE), co-rapporteurs of PACE for the monitoring of Ukraine, have welcomed the clearly-stated objective of Ukraine's authorities and ruling coalition to implement remaining commitments to the Council of Europe in the near future. "The request of the President of Ukraine to his government and the Verkhovna Rada to adopt a reform package that would honour the country's remaining commitments to the Council of Europe is an ambitious project that deserves the support of the Council of Europe and its Assembly," said the co-rapporteurs at the end of a fact-finding visit to the country. However, they also noted that several interlocutors from the opposition, but also from the ruling coalition, had indicated that the eagerness of the authorities to implement these reforms with the shortest possible delay had limited the possibility for proper reflection and consultation between all political forces. "The reforms needed to meet the remaining commitments, due to their importance, should necessarily be based on a consensus between the different political forces that is as wide as possible," stressed the co-rapporteurs. "We therefore urge the relevant authorities to ensure that parliamentary procedures are fully respected, that the Venice Commission is properly consulted before legislation is adopted, and that the elaboration and adoption of any legislative reforms are made in an open and inclusive manner." In addition, they underscored that a number of reforms depended on a long-overdue reform of the Constitution, but that the President's plans did not yet include such a constitutional reform project, which was much needed.

The co-rapporteurs noted with concern the increasing number of allegations that democratic freedoms such as freedom of assembly, freedom of expression and freedom of the media had come under stress in recent months. "A clear and unwavering respect for democratic freedoms and rights has been one of the main achievements in Ukraine's democratic development in recent years. Any regress in respecting and protecting these rights would be unacceptable for the Assembly," the co-rapporteurs said. They therefore noted with satisfaction that the President had stressed there would be zero tolerance for such behaviour, and that all allegations would be fully investigated, and perpetrators punished. "Ukraine's European orientation was highlighted over and again by all the interlocutors we spoke to. The road to European integration goes through the Council of Europe and the fulfilment of Ukraine's commitments to it. We pledge to spare no effort to help the country in doing so," concluded Ms Wohlwend and Ms Reps. Fact-finding visit to Ukraine

- *Themes*

Mevlüt Çavusoglu meets with Jean-Claude Mignon in Ankara (25.05.2010)

Mevlüt Çavusoglu met in Ankara on 25 May with Jean-Claude Mignon, head of the French parliamentary delegation and an Assembly Vice-President. The PACE President said he appreciated the work and the commitment of Mr Mignon on behalf of the Council of Europe and its Assembly. Mr Çavusoglu and Mr Mignon discussed the reform process of the Council of Europe and the role of the Assembly in this regard, as well as the need to launch the Assembly's own reform process.

Promoting gender equality: adopting laws is not enough (25.05.2010)

"National parliaments are key players to promote gender equalities - and synergies with governments are needed. It is time indeed to bridge the gap between de jure and de facto equality. Drafting and adopting laws is not enough", said on 25 May in Baku José Mendes Bota, Chairperson of the PACE Committee on Equal Opportunities for Women and Men, addressing the 7th Council of Europe Conference of Ministers responsible for Equality between Women and Men. "We may have de jure prevention, but we have de facto violence against women. We say yes, de jure, for access to justice, but de facto there is a lack of condemnations. We write, de jure, protection to victims, but de facto women are aggressed and killed everyday. We may pretend, de jure, change the electoral system, but de facto, are men who dominate the political parties", he added. According to Mr Mendes Bota, "Parliamentarians should also be accountable for the implementation of the laws and responsible for controlling the effective implementation of the laws". Statement by José Mendes Bota; Exchanges of views on violence against women and their place in political life in Azerbaijan

Conference on human rights and migration in Lisbon (26.05.2010)

A conference on human rights and migration took place in Lisbon from 31 May to 1 June 2010, focusing on the interception of migrants at sea, how they are detained and treated in receiving countries, the dangers they can face such as trafficking and racism, as well as what happens when they are expelled or forced to return. Organised jointly by the Portuguese Parliament, the Portuguese Interior Ministry and Council of Europe bodies dealing with migration – including PACE Sub-Committee on Migration -, with the participation of the Office of the UN High Commissioner for Human Rights, the conference was sub-titled “realising a human rights-based approach to the protection of migrants, refugees and asylum-seekers”. It brought together around 100 experts, academics, parliamentarians and NGO representatives for three plenary sessions and five workshops spread across two days in the Portuguese capital. Programme of the conference (PDF); Website of the European Committee on Migration

PACE Chair challenges governments never to detain children in the context of migration (01.06.2010)

The Chair of PACE’s Migration Committee has challenged European states never to detain children in the context of migration. Issuing the call during a major conference on Human Rights and Migration which ended on 1 June in Lisbon, John Greenway (United Kingdom, EDG) said: “Let’s be clear: when it comes to migration, children should never be put in detention. Full stop.” Mr Greenway said participants at the conference, jointly organised by the Portuguese Parliament, the Portuguese Interior Ministry and the Council of Europe, had given “strong backing” to this and other recommendations from the Parliamentary Assembly concerning migration. “The conference gave a ringing endorsement to the Assembly’s guidelines on detaining migrants and asylum seekers – and we are now waiting for Europe’s governments to do the same,” he said. The Assembly’s resolution on this topic is currently being considered by the Council of Europe’s executive body, the Committee of Ministers. Mr Greenway went on to say it was “simply not acceptable” for migrants and asylum seekers to be held in conditions which did not meet European standards, and were sometimes worse than conditions in regular prisons. The conference – attended by government representatives, academics, experts, parliamentarians and civil society representatives from across Europe – focused on the interception of migrants at sea, how they are detained and treated in receiving countries, the dangers they can face such as trafficking and racism, as well as what happens when they are expelled or forced to return. Paying tribute to the hosts, Mr Greenway added: “It is clear that the Portuguese Parliament and government regard the work of the Council of Europe on migration as the touch-stone in this field.” PACE Resolution on the detention of asylum seekers and irregular migrants

An important step towards a law against domestic violence (26.05.2010)

"Our meeting was the trigger needed for the parliament of Azerbaijan to take an important step towards a law against domestic violence that should hopefully be adopted before the summer, and could be then submitted to the Venice Commission for an opinion," said José Mendes Bota, Chairperson of the PACE Committee on Equal Opportunities for Women and Men, at the end of the 7th Council of Europe Conference of Ministers responsible for Equality.

Decent pensions for women (27.05.2010)

Many elderly women are poor because they have no pension or their pension is insufficient, PACE's Committee on Equal Opportunities for Women and Men warned on 27 May. Also, traditional pension systems favour the linear career paths of men and are disconnected from the realities of present-day society. Adopting a report by Anna Curdová (Czech Republic, SOC), the committee called for "fair and equitable pensions offering every man and woman a reasonable standard of living". The adopted text urges European states to guarantee a personal pension entitlement and to revise their pension laws in order not only to prohibit discrimination between women and men but also to provide for "positive discrimination in favour of women". According to the parliamentarians, governments should also ensure greater solidarity between women and men when earned pension entitlement is insufficient, including positive measures to help elderly persons. Provisional text

PACE President calls for a political culture which 'values diversity' (28.05.2010)

PACE President Mevlüt Çavusoglu has called for a political culture which values diversity. "Even if democracy means that the views of the majority prevail, there should be a balance which ensures fair treatment of minorities and avoids any abuse of a dominant position," he said, addressing delegates at the Third Forum of the UN Alliance of Civilisations in Rio. Cultural diversity and dialogue between cultures were a priority for the Council of Europe, the president said. Speaking at a thematic session on democracy, good governance and diversity, he pointed out that the Council was a "perfect illustration" of the link between these three attributes. Bringing together political ideas, cultures, languages and religions in the light of shared values was the key to the Organisation's success, he said: "Our diversity gives us the wealth of ideas and good practices; whereas our unity, deriving from our shared values, gives us the strength to overcome differences and tackle new challenges." The President was attending the Forum - whose theme is "Bridging cultures, building peace" - alongside Brazilian President Lula da Silva and UN Secretary-General Ban Ki-moon, as well as one of the two co-sponsors of the initiative, Turkish Prime Minister Recep Tayyip Erdogan. Full speech

Human rights in the North Caucasus: the most serious situation in the geographical area of the Council of Europe (31.05.2010)

The situation in the North Caucasus region, particularly the Chechen Republic, Ingushetia and Dagestan, is currently "the most serious and delicate situation" from the angle of protecting human rights and affirming the rule of law in the whole geographic area covered by the Council of Europe, as stressed by the text adopted on 31 May by the Committee on Legal Affairs and Human Rights of PACE, on the basis of the report drawn up by Dick Marty (Switzerland, ALDE). The unanimously adopted draft resolution paints a dark picture, particularly in the Chechen Republic, where the current authorities continue to nurture "a climate of pervading fear", recurrent disappearances of opponents of the Government and champions of human rights "remain widely unpunished" and the judicial organs "plainly do nothing about the misdeeds of the security forces". All of this is happening in an atmosphere of personalisation of power which is "disgraceful in a democracy". In Ingushetia, the parliamentarians noted "an alarming upsurge of violence since 2009", while in Dagestan, the outbreak of terrorist acts has prompted "prompted responses of the security forces which are not always lawful and productive".

The text adopted reaffirmed the Assembly's aversion to any act of terrorism, a phenomenon which can only be fought effectively "while respecting fundamental rights". It also pays tribute to human rights advocates, lawyers and journalists working in difficult circumstances, and often in peril of their lives, to help victims obtain justice and denounce abuses. The draft resolution calls on the Russian central and regional executive and judicial authorities to combat terrorism "by availing themselves of the instruments provided by the law-based state", and to look for the causes of the radicalisation in progress and the growing hold of religious extremism; to prosecute and try "in accordance with the law all culprits of human rights violations", including members of the security forces, and to co-operate more closely with the human rights defence organisations, while "protecting their staff members effectively against possible reprisals". In connection with enforcing the judgments of the Court finding serious and repeated violations of fundamental rights, the text welcomes the "specific efforts made by the Russian authorities", while observing that "appreciable results in the matter are still awaited". The climate of overall impunity illustrated by the Court's judgments "seriously undermine(s) the population's trust in the security forces and the state institutions generally, and thus feed(s) the nefarious spiral of violence". In the parliamentarians' view, the other Council of Europe member countries should co-operate with the Russian authorities in combating terrorism, "guarantee adequate protection to the Chechen exiles" whom they have received in their territory and "consider with the greatest care and caution extradition requests in respect of exiles from the North Caucasian republics who would risk being killed, subjected to torture or an unfair trial". Report (provisional version) (PDF)

PACE President in Rio outlines ideas for combating Islamophobia (28.05.2010)

Extremists who abuse Islam should not be invoked to justify a negative approach to Islam and Muslims in general, PACE President Mevlüt Çavusoglu has said, speaking at a roundtable on Islamophobia co-organised by the UN Alliance of Civilisations, the Organisation of the Islamic Conference and the Council of Europe ahead of the Third Forum of the UN Alliance of Civilisations in Rio. Yet Muslims should also be the first to condemn "political extremism under the cover of Islam" and work to transmit core European values within their communities, he said, by highlighting their compatibility with Islam as a religion.

The President said Islamophobia was "mostly the result of ignorance, misperception and a lack of communication and dialogue". He listed the ways governments could combat it by addressing the root causes of poverty, ending discrimination, encouraging immigrant communities to participate in public life, eliminating stereotypes and fighting terrorism in line with human rights.

Addressing a separate meeting of parliamentarians earlier, organised by the Inter-Parliamentary Union (IPU), the President said international assemblies were "the perfect ground" for dialogue between cultures and religions, bringing together parliamentarians from many cultures, and offering a tribune for prominent religious leaders from around the world. Parliaments from regions neighbouring Europe could participate in the work of the Assembly through its "Partner for democracy" status, he pointed out. Address to roundtable on Islamophobia; Address to parliamentary meeting

PACE Political Affairs Committee concerned about poor respect for rule of law in Kosovo[*] (01.06.2010)

Discussing a report by Björn von Sydow (Sweden, SOC) on the situation in Kosovo and the role of the Council of Europe, the Political Affairs Committee of PACE, meeting in Paris on 1 June, expressed its concern about the poor respect for the rule of law in Kosovo affecting the everyday lives of all persons, irrespective of the community they belong to, and their trust in the political system. In a draft recommendation to the Committee of Ministers, due to be adopted by PACE at the June session 2010, the parliamentarians argue that the Council of Europe should broaden the range of activities in Kosovo and demonstrate pragmatism, flexibility and imagination in finding formulas which would enable the broadest possible range of activities and mechanisms of the "47" to apply in Kosovo, while respecting its current policy of status-neutrality. PACE, for its part, should initiate dialogue with representatives of the political forces elected to the Kosovo Assembly on issues of common interest, while taking into account the legitimate interests and concerns of Serbia and United Nations Security Council Resolution 1244.

Presidents of Parliament of the '47' to discuss in Cyprus how to promote the rights and responsibilities of parliamentary opposition, and the principle of non-discrimination (04.06.2010)

Speakers and Presidents of Parliament from the 47 Council of Europe member States gathered on 11 and 12 June 2010 at Limassol in Cyprus, on the occasion of a conference organised by the House of Representatives of the Republic of Cyprus and PACE. They looked at good practice concerning the rights and responsibilities of the opposition in a parliament, as well as the role of national parliaments in implementing the principle of non-discrimination. The Presidents of international parliamentary assemblies, as well as parliaments enjoying observer status with PACE (Canada, Israel, Mexico), were also invited.

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

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

A. Country work

Turkey: Commissioner Hammarberg concludes his visit to Diyarbakir and Ankara (26.05.2010)

The Council of Europe Commissioner for Human Rights, Thomas Hammarberg, concluded on 26 May a three-day visit to Diyarbakir and Ankara during which he continued his dialogue with the Turkish authorities, following up on his two reports published in October 2009 regarding the human rights of minorities and refugees. In Diyarbakir the Commissioner met with regional and local authorities and NGOs and visited the E-type prison. In Ankara Commissioner Hammarberg held high-level meetings with officials of the Ministries of Foreign Affairs, Interior and Justice, as well as with UNHCR and NGOs.

B. Thematic work

Pride events are still hindered – this violates freedom of assembly (02.06.2010)

Gay pride events planned this spring have met with obstacles yet again. Meetings and marches to promote equality for lesbian, gay, bisexual and transgender persons have been banned or subject to threats and violence in Moscow, Bratislava, Vilnius and Chisinau. In Moscow gay pride events scheduled for 29 May were banned as the authorities claimed they were unable to guarantee the security of the participants, and they wanted to avoid traffic jams. The organisers appealed against the decision, but the court upheld the ban. However, some gay rights activists managed to hold a brief protest in central Moscow. (Read more)

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

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

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