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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. 131 (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 June 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.

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

Davydov and Others v. Ukraine (nos. 17674/02 and 39081/02) (Importance 2) – 1 July 2010 – Four violations of Article 3 – (i) Ill-treatment by special police forces taking part in training exercises in prison – (ii) Lack of an effective investigation – (iii) Lack of adequate medical assistance as a result of the injuries sustained during the training exercises – (iv) Conditions of detention – Violation of Article 13 – Lack of an effective remedy in respect of the complaints under Article 3 – Violation of Article 8 § 1 – Seizure and monitoring of the applicants' correspondence with the Court – Violation of Article 34 – Undue interference with the applicants' right of petition to the Court

The judgment concerns three applicants, who, at the time of the events, were serving their sentences at Zamkova correctional colony situated in Iziaslav, the Khmelnytsky region of Ukraine. According to the applicants, on two occasions while serving their prison sentences, on 30 May 2001 and on 28 January 2002, they were severely ill-treated by special police forces taking part in training exercises in the prison. The applicants complained that they were not warned about those exercises nor asked if they were willing to take part in them; they were beaten, struck, hit, stepped upon, forced to strip naked and humiliated during the operations, received no medical assistance for their injuries, and their subsequent related complaints were not investigated adequately. Further, they complained that their correspondence to the Court was censored; that some of them received solitary confinement

punishments for having written to the Court, and that they could not effectively complain about those issues. Finally, the applicants also complained about the poor quality food and the conditions in which they were detained.

Given that the Ukranian Government disputed the circumstances related to the above complaints, and denied that any of the prisoners were injured during the exercises, the Court conducted its own investigation into the circumstances of the case. In June 2007, it carried out a fact-finding mission during which three of the Court's judges heard witnesses at the premises of the Khmelnytsky Regional Court of Appeal. Evidence was also taken from three of the applicants and 13 witnesses at the Zamkova prison. The Court further examined documents submitted by the parties concerning the training exercises, including training plans and relevant regulations on prisoners' supervision and the establishment of special rapid reaction units of the State Department for Enforcement of Sentences for dealing with extraordinary situations.

The applicants submitted numerous complaints related in particular to their suffering during and after the special forces' training exercises. They relied on Articles 3, 8, 13 and 34.

Failure to comply with obligations under Article 38

Having examined the Government's conduct in assisting the Court to establish the facts of the case, the Court concluded that the Ukrainian authorities had failed to discharge their obligations under Article 38 § 1 (a) of the Convention. While being sensitive to its subsidiary role as regards the establishment of facts, the Court nonetheless assessed the evidence it gathered given that the complaints had presented sufficiently strong allegations of ill-treatment. It concluded that the training exercises had been based on regulations which had not been publicly accessible. The applicants had been injured and humiliated during the exercises. No medical records had been drawn in that connection during the first training exercise, and reports drawn during the second one had been subsequently lost. The system in force had enabled penitentiary officials not to record injuries and not to react to medical complaints. No medical treatment had been provided to the applicants who had been instead threatened by the prison administration and asked to withdraw their related complaints to the Court. Two investigations had been conducted by the Prison Department and the prosecution authorities following complaints by the applicants lodged by their representative.

Prohibition of inhuman and degrading treatment (Article 3)

The Court found that, in the context of the training events of 30 May 2001 and 28 January 2002, this provision had been violated on four counts. Firstly, the applicants had been ill-treated, and had experienced fear and humiliation during the training exercises which had been conducted without the prisoners' consent, nor any legal justification. The Court, bearing in mind the difficulties involved in policing modern societies, emphasised that the authorities should have trained their law enforcement officials so as to ensure that no one was ill-treated as a result of their actions. It also pointed out that, in line with the absolute prohibition of ill-treatment, the training activities of law enforcement officials should always be conducted, so as to prevent any possibility for State officials to act in breach of that prohibition. Secondly, no effective investigation into the applicants' complaints had been conducted. The investigations actually carried out had been plagued by numerous deficiencies; in particular, no detailed records of the investigations had ever been provided to the Court. The Court concluded that the authorities had never intended to undertake any meaningful steps to carry out an investigation that would be prompt, independent and could lead to tangible results. Thirdly, it had not been established that the applicants had ever been examined by a medical officer in relation for their complaints; no medical treatment had been provided to them for the injuries sustained during the exercises, and no proper registration system had existed for medical complaints. Last, but not least, the cells in which the applicants had been held, had been continuously overcrowded, which was a problem of a structural nature, which in itself was in breach of the Convention.

Effective remedy in respect of Article 3 complaints

The Court recalled its earlier case law in which it had found that no effective remedy existed in Ukraine in respect of complaints concerning ill-treatment, lack of effective investigation into allegations of ill-treatment and failure to provide medical assistance and conditions of detention. It concluded that there had been a violation of Article 13.

Right to respect for correspondence (Article 8)

The Court found that the applicants' letters had been illegally checked and censored, in violation of Article 8 § 1.

Right to individual petition (Article 34)

The Court held that applicants' right under this Article had been violated in view of the pressure exercised on them by the authorities to withdraw their applications to the Court.

Gavriliţă v. Romania (no. 10921/03) (Importance 2) – 22 June 2010 – No violation of Article 3 – Domestic authorities did not fail in their positive obligation to provide sick prisoner with adequate medical care

On 30 October 2000 the applicant was arrested on suspicion of drug trafficking and was remanded in custody on police premises in Constanţa. He stayed there until he was transferred to Poarta Albă detention centre in March 2001. In October that same year he was given a three-year prison sentence for drug trafficking and was released on licence in April 2003. On his arrival at the Poarta Albă detention centre the applicant was declared "clinically healthy" by the doctor, as he had been in 2000 when examined by a radiologist. In April 2001, after medical tests, the applicant was diagnosed with syphilis, for which he was treated from 18 April to 14 June 2001 at the hospital attached to Poarta Albă detention centre. On his discharge the head doctor's report noted that he was suffering from "recent latent syphilis", which was cured in July 2001, and anaemia. The applicant fell ill again and was re-admitted to hospital. In March 2003, after undergoing tests for tuberculosis at the request of the head doctor, he was transferred to the hospital of Jilava detention centre, in Bucharest, with the recommendation that he follow a "specific treatment" for that complaint. The diagnosis of "secondary tuberculosis" was confirmed there. According to the Romanian Government, the applicant had received "non-specific" treatment, as the evolution of his condition had been "stable". He was given aspirin and sedatives for his fever and headaches, as well as, according to the Government, antibiotics to treat the tuberculosis. When he was released on 9 April 2003, the applicant was still suffering from the complaint and was treated for it until December 2003.

The applicant complained in particular that he had contracted tuberculosis while being held in the Poarta Albă detention centre and insisted on the suffering he had been through as a result of the ensuing medical treatment he had had to follow after his release. He further complained more generally about the conditions of his detention that, he alleged, had caused his illness.

The Court held that there was no evidence in the file to show that the applicant had complained to the prison authorities before the test of March 2003 that he might have had tuberculosis. Moreover, the authorities could not be criticised for not carrying out systematic tests for tuberculosis on the arrival of each inmate. As soon as the applicant had been diagnosed with tuberculosis, the head doctor had recommended that he be transferred to the hospital attached to Jilava detention centre and that he be given specific treatment. Admittedly, the applicant did not receive such specific treatment at the Jilava centre but the the Court recalled that that situation had only lasted 14 days. Moreover, during that time he had nonetheless benefited from treatment for fever and headaches. As concerned the treatment followed after his release, the Court noted that that had been necessary, as treatment against tuberculosis could last for several months and even be extended to avoid the emergence of resistant strains, whose evolution was often much worse. Concerning the applicant's complaints about the conditions of his detention, Mr Gavriliţă had only referred, in vague and incoherent terms, to general "living conditions" in Poarta Albă prison. The Court found that it could not be concluded from the material in the case file or from any report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that the living conditions in Poarta Albă detention centre had been so insalubrious, unhygienic or overcrowded at the relevant time that the conditions of the applicant's detention had had a negative impact on his health. The Court thus held, by five votes to two, that there had been no violation of Article 3. Judges Ziemele and Power expressed separate opinions.

Oleksiy Mykhaylovych Zakharkin v. Ukraine (no. 1727/04) (Importance 2) – 24 June 2010 – Violations of Article 3 (substantive and procedural) – (i) Ill-treatment by police officers – (ii) Lack of an effective investigation – Violation of Article 5 §§ 1 (c) and 3 – Deprivation of liberty without judicial authorisation – Failure to bring the applicant promptly before a judge

The applicant complained that, when arrested in May 2003 on suspicion of possession of illegal drugs, he had been ill-treated by the police and that there had been no effective investigation into those events. He further complained about having been detained unlawfully and not having been brought before a judge quickly enough after his arrest.

Rejecting the applicant's allegations of torture, the Court held that there was sufficient evidence to conclude that the applicant sustained numerous injuries which were serious enough to amount to ill-treatment falling within the scope of Article 3. The Court established that the injuries in question had been sustained by the applicant while under the control of the domestic authorities and considered that the State, having failed to provide any justifying explanation, should be held responsible for them. There had been therefore a violation of the substantive limb of Article 3 of the Convention. The Court further concluded that the criminal proceedings conducted by the domestic authorities in respect of the

applicant's allegations of ill-treatment did not prove to be effective. It therefore held that there had been a violation of procedural limb of Article 3 of the Convention.

Nikiforov v. Russia (no. 42837/04) (Importance 3) – 1 July 2010 – Violations of Article 3 (substantive and procedural) – (i) Torture in police custody with the purpose of extracting a confession – (ii) Lack of an effective investigation

The applicant is currently serving a seven year prison sentence in Kostroma for robbery. He alleged that he had been beaten during his police custody in December 2003 and that the ensuing investigation into that allegation had been ineffective.

The Court found that the existence of physical pain or suffering is attested by the medical report and the applicant's statements regarding his ill-treatment in the police station. Although his injuries were classified as "light injuries" in the domestic proceedings, the Court considered that his broken nose and multiple bruises and abrasions attest to the severity of the ill-treatment to which he was subjected. It is also relevant for the assessment of the seriousness of those acts that the pain and suffering were inflicted on him intentionally, with the view to extracting from him a confession to having committed the offence of which he was suspected. In these circumstances, the Court concluded that, taken as a whole and having regard to its purpose and severity, the ill-treatment at issue amounted to torture within the meaning of Article 3 of the Convention. Accordingly, there had been a violation of Article 3 under its substantive limb.

The Court further observed that the manner in which the inquiry was conducted reveals the investigative authorities' determination to dispose of the matter in a hasty and perfunctory fashion. The inquiry was passed between authorities and investigators who routinely attempted to discontinue the proceedings on various grounds. Over a period of three years, seven decisions refusing the institution of criminal proceedings were given, all of which – save for the last one – were set aside by supervising prosecutors or courts because the inquiry that had been carried out until then had been incomplete or deficient. The Court noted that the most fundamental investigative measures, such as inspecting the scene where the applicant alleged to have been beaten or arranging a confrontation between him and the police officers from district police station, were never carried out. These failures alone, for which no explanation has been provided to the Court, sufficed to render the investigation ineffective. Accordingly, there had also been a violation of Article 3 under its procedural limb.

- **Right to fair trial**

Hakimi v. Belgium (no 665/08) (Importance 2) – 29 June 2010 – Violation of Article 6 § 1 – Failure to provide the applicant with information concerning the possibilities of appeal against a judgment convicting him in his absence, breached his right of access to a court

In September 2006 the applicant was convicted in his absence by the Brussels Court of Appeal to eight years' imprisonment and a fine of 2,500 euros (EUR) for participation in the activities of a terrorist group. That judgment upheld a judgment of the Brussels Criminal Court dated February 2006 sentencing him to seven years' imprisonment and a EUR 2,500 fine. The judgment was served on the applicant the same day in Saint-Gilles Prison by the prison's deputy governor, in French and without an interpreter (although the applicant had been assisted by an interpreter throughout the investigation and during his court appearances) and without any reference being made to the period of 15 days during which he could apply to have the judgment set aside. Almost a month and a half later, in October 2006, the applicant lodged an application to have the Court of Appeal judgment set aside. He complained, among other things, of not having had the services of an interpreter when the judgment was served on him and of the refusal of the prison authorities to provide him with information concerning the possibilities of appeal. In March 2007 the Court of Appeal rejected the applicant's application to set aside the judgment as being out of time. Basing its ruling on a judgment of the Court of Cassation of 21 June 2006, it held that there was no domestic or international norm directly applicable in Belgian law requiring convicted persons to be informed of the avenues of appeal open to them, the authorities competent to hear such appeals or the time-limits to be complied with. In June 2007 the Court of Cassation upheld the judgment, ruling that neither the Convention nor the applicable legal provisions required the record of service of a conviction handed down in the person's absence to mention the right to appeal or the time allowed in which to exercise that right. Following the Court's judgment in a similar case in 2007 (see *Da Luz Domingues Ferreira v.Belgium*), the Belgian authorities adopted a series of measures as a result of which the possibilities of appeal are now systematically explained when judgments are served on persons in the applicant's situation.

The applicant complained of the fact that his application to set aside the judgment convicting him in his absence had been rejected as being out of time. He stressed the fact that he had not been informed by the prison authorities of the time-limit for applying to have the judgment set aside.

The applicant expressly indicated that his application to the Court was aimed at securing the reopening of the criminal proceedings against him in Belgium, which in principle had been finally concluded. A measure of this kind could indeed be envisaged at the stage of execution of a Court judgment finding a violation of the Convention. Belgian law allowed the Court of Cassation to agree to the reopening of criminal proceedings "if it [had] been established by a final judgment of the Court that there [had] been a violation of [the Convention] or one of the additional Protocols". However, it was not clear whether it was possible to accede to such a request following a unilateral declaration by the Government. In the present case, the Belgian authorities had proposed to acknowledge unilaterally that there had been a violation of Article 6 § 1 of the Convention and to pay the applicant EUR 10,000. In the circumstances, the Court rejected the proposal and decided to give judgment on the merits of the application. As to the merits, the Court referred to its judgment in *Da Luz Domingues Ferreira* (in which a judgment served on the applicant, who was in prison abroad, likewise made no mention of the time allowed for appeal). The Court held that the refusal by the Court of Appeal to reopen the proceedings, which had been conducted in the applicant's absence, and the rejection of the applicant's application to set aside his conviction as being out of time, had deprived him of his right of access to a court. The Court therefore reached the same conclusion in the case of the applicant, namely that there had been a violation of Article 6 § 1. Lastly, the Court noted that it was clear from the applicant's observations that he was waiving any claim for compensation for the damage alleged (Article 41, just satisfaction); the Court held that the finding of a violation constituted in itself sufficient just satisfaction. It further reiterated that when it found that an applicant had been convicted in breach of one of the guarantees of a fair trial, as in the present case, the most appropriate form of redress was, in principle, for the individual concerned to be retried or for the proceedings to be reopened, in due course and in accordance with the requirements of Article 6 of the Convention.

Mancel and Branquart v. France (no 22349/06) (Importance 2) – 24 June 2010 – Violation of Article 6 § 1 – Lack of impartiality of the Court of Cassation in criminal proceedings

In May 1998 the applicants were placed under investigation for, among other offences, acquiring or retaining a prohibited interest (Mr Mancel), and aiding and abetting that offence (Mr Branquart). Mr Mancel, who was chairman of the Oise Department council at the relevant time, was accused of having received indirect benefits from the company managed by Mr Branquart, which had been awarded the council's communications contract. The applicants were committed for trial before the Beauvais Criminal Court and on 26 October 2000 were sentenced respectively to six and four months' imprisonment, suspended. They were ordered to pay criminal fines of 200,000 French francs (approximately 30,500 euros (EUR)) each and were stripped of their civic rights for two years. In November 2001, however, the Amiens Court of Appeal acquitted both the applicants. After a prosecution appeal on points of law, the Court of Cassation reversed and quashed the appeal judgment and remitted the case to the Paris Court of Appeal. Basing its findings on the facts established by the Amiens Court of Appeal, it ruled that the applicants' acquittal had been in breach of the Criminal Code as the existence of the offence had been established, as had the applicants' intention to commit it. In April 2005 the Paris Court of Appeal found the applicants guilty as charged. It sentenced Mr Mancel to 18 months' imprisonment, suspended, and to a fine of EUR 30,000; Mr Branquart was sentenced to an eight-month suspended prison term and a fine of EUR 20,000. In November 2005 the Court of Cassation dismissed the appeals on points of law lodged by the applicants against that judgment, after verifying that the Court of Appeal had established both the objective and intentional elements of the offence for which they had been prosecuted. Seven of the nine judges who rendered this judgment had been members of the bench of the Court of Cassation which ruled on the first appeal on points of law in 2002.

The applicants alleged that the formation of the Court of Cassation which upheld their conviction had not been impartial, as seven of the nine judges had already ruled on their case previously. In their view, the Court of Cassation should have a different composition when considering an appeal against a judgment given after an initial ruling had been quashed.

The Court noted first of all that seven of the nine judges in the formation of the Court of Cassation which examined the appeal against the judgment convicting the applicants had previously been on the bench which ruled on the appeal on points of law against the judgment acquitting them. It took the view that this was liable to raise doubts in the applicants' minds as to the impartiality of the Court of Cassation. The Court therefore had to consider whether, bearing in mind the task facing the judges of the Court of Cassation in ruling on the initial appeal on points of law (against the acquittal judgment), they had in fact been biased – or at least given the appearance of bias – when it came to deciding subsequently on the second appeal (against the judgment convicting the applicants). That would be

the case, in particular, if the issues they had to consider in the second appeal were similar to those on which they had ruled on the first occasion. In that connection the Court observed that, following the first appeal on points of law, the Court of Cassation had considered, in the light of the factual elements, whether the offence had actually been committed, finding both the objective and intentional elements of the offence to be made out. Following the second appeal the Court of Cassation was once again called upon to verify the assessment of the constitutive elements of the offence made by the Court of Appeal to which the case had been remitted. In such circumstances there had indeed been objective reasons to fear that the Court of Cassation might have been biased or prejudiced in taking its decision on the second appeal on points of law. Accordingly, the Court held by four votes to three that there had been a violation of Article 6 § 1. Judge Berro-Lefèvre expressed a dissenting opinion, joined by Judges Maruste and Villiger.

Karadag v. Turkey (no. 12976/05) (Importance 3) – 29 June 2010 – Violation of Article 6 § 3 c) and d) in conjunction with Article 6 § 1 – Deprivation of the right to legal assistance, as the applicant was represented by a non-qualified lawyer during part of the police custody and during the initial proceedings – Violation of Article 6 § 2 – Infringement of the applicant's right to being presumed innocent on account of a public television program depicting the applicant as a criminal

At the time of lodging the application, the applicant was in detention in Sinop prison. Criminal proceedings were opened against him following the murder of the owner of a mobile phone shop, who was found stabbed to death. In January 2002 the applicant was taken into police custody. According to the transcript of his statement to the police on that day, he confessed to the murder, and there was a tick in the box marked "lawyer present during examination of witness". On two subsequent occasions – during a reconstruction of the events and when giving evidence to the military authorities – the applicant was not assisted by a lawyer. In February 2002 he was charged with the murder. The Assize Court heard an eye-witness, Ö. B., who recognised the applicant. In May 2002 a television programme about the case was aired, with actors playing the parts of the applicant and the other people involved, interspersed with commentary, about the applicant's state of mind among other things, and scenes from the reconstruction of the crime. The programme showed the applicant's character stabbing the shopkeeper. It also featured testimonies by witnesses, including a police officer. Following the broadcast the applicant was hospitalised with severe depression. In September 2002 an investigation was opened into the person who had initially acted as the applicant's counsel during his trial, there being some doubt as to whether she was a qualified lawyer. At that time the applicant was represented by a new lawyer, who requested that all the procedural steps taken when the applicant was not properly represented be taken afresh. His request was rejected. In November 2002 the Assize Court found the applicant guilty of murder and sentenced him to life imprisonment. That judgment was set aside by the Court of Cassation and the case was remitted. In December 2003 the Assize Court found the applicant guilty of murder, based, among other things, on statements made by witnesses, including Ö. B. In October 2004 the Court of Cassation rejected the applicant's appeal against that judgment. In 2007 the person who had represented the applicant during part of his trial was found guilty by the Assize Court of illegally practising law; she had opened a law firm, drawn up notarised documents and taken part in trials and enforcement proceedings.

The applicant complained, among other things, that he had not been assisted by a lawyer while in police custody, that the proceedings against him had been unfair for various reasons – statements made under duress, lack of legal representation – and that his right to be presumed innocent had been violated by the television programme about his case at the time of his trial. He also complained about violence allegedly suffered during police custody and the duration of that custody; as well as about the fees paid to the non-qualified lawyer.

Article 6 § 3 c) in conjunction with Article 6 § 1

The Court reiterated that in order for a trial to be fair the accused must have access to the full range of services provided by counsel, and that the absence of legal representation during the investigation constituted a breach of the requirements of Article 6. In this case, although the applicant had been represented by counsel during part of his time in police custody, he had had no counsel when he was taken to the scene of the crime for the reconstruction, or during his questioning by the military authorities. The Court accordingly found a violation of Article 6 § 3 c) in conjunction with Article 6 § 1.

Article 6 § 3 d) in conjunction with Article 6 § 1

The Court reiterated that paragraphs 1 and 3 d) of Article 6 provided for an accused person to be able to challenge statements made by witnesses against him and to question the witnesses concerned. In this case, up until the hearing preceding the one at which sentence was pronounced, the applicant had not been represented by a qualified lawyer but by someone posing as a lawyer. His subsequent lawyer's request for the procedural steps taken when his client had not been properly represented to

be taken again had been rejected. The Court considered that the examination and remittal of the case by the Court of Cassation had not remedied the unfairness that had marked the initial proceedings. The failure to hear witnesses at the only stage in the judicial proceedings when the applicant had been represented by a bona fide lawyer had deprived him of the possibility of presenting his case in keeping with the principle of equality of arms and the adversarial principle. The Court found a violation of Article 6 § 3 d) in conjunction with Article 6 § 1.

Article 6 § 2

The Court noted that the television programme about the applicant's case had been interspersed with real witness accounts, including that of a police investigator describing details of the investigation and the circumstances of the crime and leaving no doubt as to the applicant's guilt. While the authorities had the right to inform the public about progress in criminal investigations, they had to respect the presumption of innocence. This had not been the case here, as the police had taken no such precautions in depicting the applicant as a criminal. Furthermore, the Turkish Government had provided no explanation as to how the press had been able to access the crime scene and film the reconstruction in which the applicant had taken part. The Court found a violation of Article 6 § 2.

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

Schalk and Kopf v. Austria (no. 30141/04) (Importance 1) – No violation of Article 12 – No violation of Article 14 in conjunction with Article 8 – The Convention does not impose an obligation on member States to grant same-sex couples marriage rights

The applicants are a same-sex couple. In September 2002 the applicants asked the competent authorities to allow them to enter into a marriage contract. Their request was refused by the Vienna Municipal Office on the grounds that marriage could only be contracted between two persons of opposite sex. The applicants lodged an appeal with the Vienna Regional Governor, who confirmed the Municipal Office's view in April 2003. In a subsequent constitutional complaint, the applicants alleged in particular that the legal impossibility for them to get married constituted a violation of their right to respect for private and family life and of the principle of non-discrimination. The Constitutional Court dismissed their complaint in December 2003, holding in particular that neither the Austrian Constitution nor the European Convention on Human Rights required that the concept of marriage, as being geared to the possibility of parenthood, should be extended to relationships of a different kind and that the protection of same-sex relationships under the Convention did not give rise to an obligation to change the law of marriage. On 1 January 2010, the Registered Partnership Act entered into force in Austria, aiming to provide same-sex couples with a formal mechanism for recognising and giving legal effect to their relationships. While the Act provides for many of the same rights and obligations for registered partners as for spouses, some difference remain, in particular registered partners are not allowed to adopt a child, nor are step-child adoption or artificial insemination allowed.

The applicants complained of the authorities' refusal to allow them to enter into a marriage contract. They further complained that they were discriminated against on account of their sexual orientation since they were denied the right to marry and did not have any other possibility to have their relationship recognised by law before the entry into force of the Registered Partnership Act.

Article 12

The Court first examined whether the right to marry granted to "men and women" under the Convention could be applied to the applicants' situation. As regards their argument that in today's society the procreation of children was no longer a decisive element in a civil marriage, the Court considered that in another case it had held that the inability to conceive a child could not be regarded in itself as removing the right to marry. However, this finding and the Court's case-law according to which the Convention had to be interpreted in present-day conditions did not allow the conclusion, drawn by the applicants, that Article 12 should be read as obliging member States to provide for legal marriage rights for same-sex couples. The Court observed that among Council of Europe member States there was no consensus regarding same-sex marriage. Having regard to the Charter of Fundamental Rights of the European Union, to which the Austrian Government had referred in their pleadings, the Court noted that the relevant Article, granting the right to marry, did not include a reference to men and women, which allowed the conclusion that the right to marry must not in all circumstances be limited to marriage between two persons of the opposite sex. At the same time the Charter left the decision whether or not to allow same-sex marriage to regulation by member States' national law. The Court underlined that national authorities were best placed to assess and respond to the needs of society in this field, given that marriage had deep-rooted social and cultural connotations differing largely from one society to another. In conclusion, the Court found that Article 12 did not

impose an obligation on the Austrian Government to grant a same-sex couple like the applicants marriage rights. It therefore unanimously held that there had been no violation of that Article.

Article 14 in conjunction with Article 8

The Court first addressed the issue whether the relationship of a same-sex couple like the applicants' fell not only within the notion of "private life" but also constituted "family life" within the meaning of Article 8. Over the last decade, a rapid evolution of social attitudes towards same-sex couples had taken place in many member States and a considerable number of States had afforded them legal recognition. The Court therefore concluded that the relationship of the applicants, a cohabiting same-sex couple living in a stable partnership, fell within the notion of "family life", just as the relationship of a different-sex couple in the same situation would. The Court had repeatedly held that different treatment based on sexual orientation required particularly serious reasons by way of justification. It had to be assumed that same-sex couples were just as capable as different-sex couples of entering into stable committed relationships; they were consequently in a relevantly similar situation as regards their need for legal recognition of their relationship. However, given that the Convention was to be read as a whole, having regard to the conclusion reached that Article 12 did not impose an obligation on States to grant same-sex couples access to marriage, the Court was unable to share the applicants' view that such an obligation could be derived from Article 14 taken in conjunction with Article 8. Given that with the entry into force of the Registered Partnership Act in Austria it was open to the applicants to have their relationship formally recognised, it was not the Court's task to establish whether the lack of any means of legal recognition for same-sex couples would constitute a violation of Article 14 taken in conjunction with Article 8 if this situation still persisted. It remained to be examined whether Austria should have provided the applicants with an alternative means of legal recognition of their partnership any earlier than it did. The Court observed that while there was an emerging European consensus towards legal recognition of same-sex couples, there was not yet a majority of States providing for it. The Austrian law reflected this evolution; though not in the vanguard, the Austrian legislator could not be reproached for not having introduced the Registered Partnership Act any earlier. The Court was not convinced by the argument that if a State chose to provide same-sex couples with an alternative means of recognition, it was obliged to confer a status on them which corresponded to marriage in every respect. The fact that the Registered Partnership Act retained some substantial differences compared to marriage in respect of parental rights corresponded largely to the trend in other member States. Moreover, in the present case the Court did not have to examine every one of these differences in detail. As the applicants did not claim that they were directly affected by the remaining restrictions concerning parental rights, it would have gone beyond the scope of the case to establish whether these differences were justified. In the light of these findings, the Court concluded, by four votes to three, that there had been no violation of Article 14 in conjunction with Article 8. Judges Rozakis, Spielmann and Jebens expressed a dissenting opinion; Judges Kovler and Malinverni expressed a concurring opinion.

- **Freedom of expression**

Bingöl v. Turkey (no. 36141/04) (Importance 3) – 22 June 2010 – Violation of Article 10 – Criminal conviction of a politician for his speech concerning an analysis of the Kurdish question criticising the Turkish State's policies since the foundation of the Republic

At the material time the applicant was a committee member in the party DEHAP (Democratic People's Party) and took part in political activities in that connection. In February 2003, during the DEHAP congress, the applicant gave a speech in which he criticised the Turkish State over the Kurdish question. The public prosecutor in the State Security Court called for his conviction for supporting the illegal organisation PKK (Kurdistan Workers' Party). The applicant was sentenced under the Criminal Code to one year and six months' imprisonment for open incitement to racial hatred and hostility in society on the basis of a distinction between social classes, races or religions. That decision was upheld by the Court of Cassation. After serving seven months of his prison sentence the applicant was released and requested his reinstatement, as a State employee, to the post of imam from which he had resigned in order to stand for election. That request was denied on account of his criminal conviction, together with his attempt to stand for election to parliament in 2007.

The applicant complained about his criminal conviction for having expressed an opinion as a politician, arguing that it was particularly harsh and that he was discriminated against for belonging to the Kurdish ethnic minority.

The Court first pointed out that the nature of the offending remarks was by no means comparable to those examined in the case of *Garaudy*, to which the Turkish Government had referred. In that case the Court had found that the remarks fell outside the protection of Article 10 – in accordance with Article 17– taking the view that they were markedly revisionist and therefore ran counter to the

fundamental Convention values of justice and peace. In the present case it was not in dispute that the interference with the applicant's freedom of expression had been prescribed by the Criminal Code. The Court expressed serious doubts, however, as to the existence in the case of any of the legitimate aims mentioned by the Government. As to the question of "necessity of the interference in a democratic society", the Court stressed that it had already dealt with cases concerning similar questions in which it had taken account of difficulties related to the fight against terrorism. In the present case the remarks corresponded to an analysis of the Kurdish question by a vociferous critic of the Turkish State's policies since the foundation of the Republic, and the State Security Court had taken the view that the terms used had incited people to hatred and hostility. The Court found that those reasons were insufficient by themselves to justify the interference in question. Whilst certain passages portrayed the Turkish State in a very negative light, with a hostile connotation, they did not however advocate the use of violence. Above all, they did not seek to arouse deep or irrational hatred against those who were presented as responsible for the situation at issue. The Court noted that the applicant had received a particularly harsh punishment, namely imprisonment for a year and a half and ineligibility from public service and from standing for election, whereas he had been a politician. The Court took the view that the remarks had been made in the context of a debate of legitimate public interest and that there was no evidence to justify a prison sentence in those circumstances. The interference did not meet any compelling social need and was not therefore "necessary in a democratic society". The Court thus found that there had been a violation of Article 10.

Kurłowicz v. Poland (no. 41029/06) (Importance 3) – 22 June 2010 – Violation of Article 10 – Domestic authorities' failure to strike a fair balance between the relevant interests of, on the one hand, the protection of a school complex manager's right not to be defamed and, on the other, an elected representative's right to freedom of expression in exercising this freedom in a matter of public interest

At the relevant time, the applicant was the President of the City Council in Knyszyn. He complained of his criminal conviction for defamation following statements he made in February 2004 during a City Council meeting about the professional conduct of a school manager.

The Court noted that in its practice it has distinguished between statements of fact and value judgments. While the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. Where a statement amounts to a value judgement, the proportionality of interference may depend on whether there exists a sufficient factual basis for the impugned statement, since even a value judgment may be excessive without any factual basis to support it. As regards the categorisation of the applicant's statements, the Court observed that the Polish courts unreservedly qualified all of them as statements without a factual basis. It is prepared to accept that most of the statements, such as the assertion that the claimant "failed to appoint the school council" or "granted overtime work only to certain teachers" could be considered as statements which lacked a sufficient factual basis. However, the Court considered, contrary to the view taken by the domestic courts, that the applicant's speech also included statements which could reasonably be regarded as value judgements, such as the statement that the claimant "mismanaged the school complex finances", "spent money on teachers' training in an inappropriate and non-objective way not corresponding to the school's needs" or that the school "lacked discipline". The Court considered that these value judgments on a matter of public interest enjoy the protection of Article 10 of the Convention. The Court found that the domestic courts overstepped the narrow margin of appreciation afforded to member States, and that there was no reasonable relationship of proportionality between the measures applied by them and the legitimate aim pursued. There had, accordingly, been a violation of Article 10.

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 22 Jun. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 24 Jun. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 29 Jun. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 01 Jul. 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.

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Austria	24 Jun. 2010	European University Press GmbH (no. 36942/05) Imp. 3	Violation of Art. 6 § 1	Violation of the principle of equality of arms on account of the non-communication of the applicant company's correction request of a Supreme Court's judgment	Link
Croatia	01 Jul. 2010	Hađi (no. 42998/08) Imp. 2	No violation of Art. 5 § 1 Violation of Art. 5 § 4	Lawfulness of detention Unfairness of proceedings concerning the lawfulness of the applicant's detention on account of the Constitutional Court's failure to decide speedily on the applicant's constitutional complaint	Link
Croatia	01 Jul. 2010	Vusić (no. 48101/07) Imp. 3	Violation of Art. 6 § 1	Infringement of the principle of legal certainty on account of the existence of the two contradictory decisions of the Supreme Court on the same case	Link
Greece	01 Jul. 2010	Bala (no. 40876/07) Imp. 3	Violation of Art. 5 § 4	Domestic court's refusal to provide the applicant with the opportunity to challenge the public prosecutor's submissions concerning his continued pre-trial detention	Link
Greece	01 Jul. 2010	Vogiatzis and Others (no. 17588/08) Imp. 3	Violation of Art. 6 § 1 Violation of Art. 13	Domestic authorities' lengthy delay in complying with a court judgment awarding the applicants additional compensation in a case concerning the expropriation of their land Lack of an effective remedy	Link
Moldova	29 Jun. 2010	Ipteh SA and Others (no. 35367/08) Imp. 3	Just satisfaction Struck out	Just satisfaction following a judgment of 24 November 2009, where the Court held that there had been a violation of Art. 6 § 1 and Art. 1 of Prot. 1 on account of the unfairness of proceedings in which the privatisation of a building in Chişinău belonging to Ipteh SA was annulled At the applicants' request, the Court struck the remainder of the case out of the list of cases following its settlement at national level	Link
Poland	22 Jun. 2010	Flieger (no. 36262/08) Imp. 3	Violation of Art. 6 § 1	Excessive length of criminal proceedings (some ten years for one level of jurisdiction)	Link
Romania	22 Jun. 2010	Boroancă (no. 38511/03) Imp. 2	Violation of Art. 3 (procedural) No violation of Art. 6	Lack of an effective investigation into the applicant's allegations of rape in prison The applicant's conviction *in absentia* didn't breach this provision as the applicant had the opportunity to have his case examined in appeal	Link
Russia	24 Jun. 2010	Veliyev (no. 24202/05) Imp. 2	Violation of Art. 3 Violation of Art. 5 §§ 1 (c), 3 and 4 Violation of Art. 6 § 1	Conditions of detention in pre-trial detention centre IZ-33/1 Unlawfulness, excessive length of detention and delays in the judicial examination of the applicant's appeals against the detention orders Excessive length of criminal proceedings	Link
Russia	01 Jul. 2010	Nedayborshch (no. 42255/04) Imp. 3	Violation of Art. 3	Conditions of detention in Kopeysk temporary detention centre	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
Turkey	22 Jun. 2010	Economou (no. 18405/91) link Evagorou Christou (no. 18403/91) link Gavriel (no. 41355/98) link Ioannou (no. 18364/91) link Kyriacou (no. 18407/91) link Michael (no. 18361/91) link Nicolaides (no. 18406/91) link Orphanides (no. 36705/97) link Sophia Andreou (no. 18360/91) link	Just satisfaction	Just satisfaction following judgments of 20 and 27 January 2009, where the Court held that, concerning the applicants' right of access to their property in the northern part of Cyprus, there had been a violation of Art. 1 of Prot. 1 and Art. 8 (except *Economou* and *Nicolaides*)

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
Germany	24 Jun. 2010	Afflerbach (no. 39444/08)	Link
Germany	24 Jun. 2010	Kuchejda (no. 17384/06)	Link
Germany	24 Jun. 2010	Perschke (no. 25756/09)	Link
Germany	24 Jun. 2010	Schädlich (no. 21423/07)	Link
Hungary	29 Jun. 2010	Révész (no. 5417/06)	Link
Italy	22 Jun. 2010	Baccini and Artuzzi (nos. 26314/03 and 26326/03)	Link
Italy	22 Jun. 2010	Ciampa and Others (nos. 7253/03, 7596/03 and 7608/03)	Link

Italy	22 Jun. 2010	Rossi and Iuliano and Others (nos. 676/03, 678/03, 682/03, 693/03, 695/03 and 697/03)	Link
Italy	22 Jun. 2010	Toscana Restaura s.a.s. and Azienda Agricola S. Cumano s.r.l. (nos. 4428/04 and 5481/05)	Link
Portugal	22 Jun. 2010	Garcia Franco and Others (no. 9273/07)	Link
Slovenia	22 Jun. 2010	Maksimovič (no. 28662/05)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 31 May to 13 June 2010**.

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

• Decisions deemed of particular interest to NHRSs

Adrian Mihai Ionescu v. Romania (no. 36659/04) (Importance 2) – 1 June 2010 – Inadmissible – First application by the court of the new admissibility criterion introduced by Protocol no.14

In an action brought before the Bucharest Court of First Instance, the applicant sought damages in the amount of 90 Euros from a road transport company. He had travelled between Bucharest and Madrid with the company and alleged that it had failed to observe the safety and comfort requirements set out in its advertising material (use of fully reclining seats, change of coach in Luxembourg and availability of six drivers). In January 2004 the court dismissed his action, observing that none of the clauses referred to by the applicant appeared in the contract of carriage. The court did not rule on a request by the applicant for the production of certain items of evidence by the company. The applicant subsequently appealed on points of law to the same court, but the case was referred to the High Court of Cassation and Justice. In a final judgment delivered in April 2004 in the absence of the parties, who had not been summoned to appear, the High Court declared the appeal null and void on the ground that it had not stated the reasons why the first-instance court's decision was alleged to be unlawful. The applicant applied to have that judgment set aside; his application was dismissed on 26 January 2005 as no appeal lay against the judgment. The applicant complained, firstly, that the Court of First Instance had failed to rule on his request for the production of evidence. He further complained that the proceedings in the High Court of Cassation and Justice had not been conducted in public, that his appeal on points of law had been declared null and void and that the High Court's judgment had not been subject to appeal. He relied on Article 6 § 1 (right to a fair hearing) of the Convention.

Complaint concerning the proceedings in the Court of First Instance

The Court reiterated that the admissibility of evidence was primarily a matter for national law. In this case, the Court of First Instance had carried out a wholly independent assessment of the evidence adduced by the parties and given adequate reasons for its judgment, following adversarial proceedings. The applicant's first complaint was therefore manifestly ill-founded.

Complaint concerning the proceedings in the High Court of Cassation and Justice

The Court noted at the outset that these complaints were not incompatible with the provisions of the Convention, manifestly ill-founded or an abuse of the right of application. However, since the entry into force of Protocol No. 14 to the Convention on 1 June 2010, a new admissibility criterion was applicable: an application is inadmissible where "the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal". The Court considered it necessary to examine of its own motion whether the present case fell into this category. It examined, firstly, whether the applicant had suffered any significant disadvantage (the main aspect of the new criterion). This was not the case, since the alleged financial loss was limited (90 euros, according to the applicant) and there was no evidence that the applicant's financial circumstances were such that the outcome of the case would have had a significant effect on his personal life. Secondly, it examined whether respect for human rights required an examination of the application on the merits. The answer was again negative, since the relevant legal provisions had been repealed, and the issue before the Court was therefore of historical interest only. Lastly, the Court noted that the case had been "duly considered" on the merits by a tribunal, namely the Bucharest Court of First Instance. The three

conditions of the new admissibility criterion had therefore been satisfied. Accordingly, the Court, by a majority, declared the application inadmissible.

- **Other decisions**

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Bulgaria and Sweden	01 Jun. 2010	Cholakov (no 20147/06) link	The applicant complained about his arrest, administrative proceedings concerning his grandfather's former land, his conviction for an act of minor hooliganism (against Bulgaria) The applicant complained about having been unsuccessful and discriminated against in his application for a job at Växjö University and unsuccessful in the proceedings he had brought in Sweden in relation to the interruption of his Internet access (against Sweden)	Partly adjourned (concerning the applicant's conviction for an act of minor hooliganism), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	01 Jun. 2010	Fazliyski (no 40908/05) link	Alleged violation of Art. 13 (lack of effective remedies to protect the applicant's rights as the results of the expert opinion on his psychological inaptitude for work could not be appealed against and were not subject to judicial control), Art. 6 § 1 (failure to provide the applicant with original copies of the domestic courts' judgments due to the classified character of the case; deprivation of the right to a fair trial on account of the Supreme Administrative Court's rejection of the applicant's appeal disregarding its earlier judgment),	Partly adjourned (concerning the first three complaints), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	01 Jun. 2010	Sarkizov and Others (no 37981/06; 38022/06; 39122/06; 44278/06) link	Alleged violation of Art. 5 (unlawfulness and excessive length of detention, lack of an effective remedy to challenge the applicants' detention, lack of adequate compensation in respect of the unlawful detention), Articles 3 and 13 (conditions of detention in the Pazardzhik Regional Investigation Service and in Pazardzhik Prison and lack of an effective remedy), Art. 8 (unlawful and unjustified searches of the applicants' apartments), Art. 1 of Prot. 1 (seizure of personal belongings without authorisation), Articles 8 and 13 (unlawful secret surveillance and lack of an effective remedy), Art. 6 §§ 1 and 3 (d) (unfairness of proceedings, the applicants' inability to challenge witnesses), Art. 2 of Prot. 4 (restrictions on the applicants' right to freedom to leave the country), Art. 8 (Mr Sarkizov's wedding ceremony, which was carried out in prison, lasted only three minutes, after which he was allowed to meet his wife for only five minutes)	Partly adjourned (concerning complaints under Article 6 §§ 1 and 3 (d) and the complaints of Mr Vasilev and Mr Marinkov under Article 2 §§ 2 and 3 of Protocol No. 4 and Article 8, individually and in conjunction with Article 13 of the Convention), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	08 Jun. 2010	Nikolov (no 19671/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)

Bulgaria	08 Jun. 2010	Doychinski (no 31695/05) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of civil proceedings), Art. 13 (lack of an effective remedy)	Partly struck out of the list (it is no longer justified to continue the examination of the complaint concerning the length of proceedings and the lack of an effective remedy as the matter had been resolved at the domestic level), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Bulgaria	08 Jun. 2010	Valchev (no 27238/04) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (unilateral declaration of the Government)
Bulgaria	01 Jun. 2010	Boneva (no 9044/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings and lack of adequate compensation)	Partly struck out of the list (friendly settlement reached in respect of the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Cyprus, Greece and the United Kingdom	03 Jun. 2010	Emin and Others (no 59623/08) link	Complaints against Cyprus Alleged violation of Art. 2 (killing of the applicants' relatives as part of a planned and State-encouraged campaign of ethnic cleansing and lack of an effective investigation into the disappearance and killings of their relatives), Art. 3 (the applicants' mental suffering on account of the disappearance and discovery of the remains of their relatives), Art. 8 (the disappearance of the applicant's father when they were young left them in poverty and uncertainty), Art. 13 (lack of an effective remedy in respect of the death of their relative), Art. 14 (their relatives were subject to a form of ethnic cleansing based on their identity as Turkish Cypriots which disclosed discrimination based on ethnic, religious, racial and political motives) Complaints against Greece The applicants in five cases (*Aybenk Abdullah and Others* (no. 16206/09), *Arkut* (no. 25180/09), *Akay and Others* (no. 32744/09), *Hussein and Others* (no. 36499/09), and in *Eray and Others* (no. 57250/09)) complain that Greece was responsible for the violation of Art. 2 as they helped the Republic of Cyprus to act against the Turkish-Cypriot population; they also complain that their relatives were killed by Greek soldiers or militia acting under the orders of the Republic of Greece alongside the Cypriot forces acting under the orders of the Republic of Cyprus Complaints against the United Kingdom In *Arkut* (no. 25180/09), the applicants submit that the United Kingdom had failed to comply with its obligation to undertake the	Partly adjourned (concerning complaints against the Republic of Cyprus concerning the lack of investigation following the discovery of the remains of their relatives and the consequent suffering), partly incompatible *ratione temporis* (the applicants' complaints are based on the event of the disappearances themselves in 1963 or 1964, the Court lacks temporal jurisdiction concerning the applicants' relatives' disappearance in life-threatening circumstances in 1963 and 1964), partly incompatible *ratione personae* and *materiae* concerning the United Kingdom, partly inadmissible for non-respect of the six-month requirement concerning the Republic of Cyprus

			necessary investigation when its citizens are killed In *Eray and Others* (no. 57250/09), the applicants claim that some of the eleven victims held British passports and all were working on the British base	
Cyprus	10 Jun. 2010	Orams (no 27841/07) link	Alleged violation of Art. 6 § 1 (in particular unfairness of proceedings, lack of access to a court, unfairness of hearings), Art. 14 (discrimination based on the applicants' English origin)	Partly inadmissible as manifestly ill-founded (the applicants were able to challenge their complaints at the domestic level), partly inadmissible for non respect of the six-month requirement (concerning claims under Art. 14)
Germany	08 Jun. 2010	Hümmer (no 26171/07) link	Alleged violation of Art. 6 § 3 (d) (failure to provide the applicant with an opportunity to cross-examine the witnesses against him after they had availed themselves of their right not to testify in court)	Admissible
Germany	31 May 2010	Ipsen (no 31396/09) link	The complaint concerned the excessive length of administrative proceedings concerning the applicant's duty as a university professor to surrender auxiliary earnings to his employer, a university	Struck out of the list (the applicant wished to withdraw his application)
Germany	31 May 2010	Kuschmann (no 2390/09) link	The complaint concerned the length of social court proceedings	Struck out of the list (friendly settlement reached)
Hungary	08 Jun. 2010	Názon (no 23537/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Hungary	08 Jun. 2010	Zichy Galéria Képző- és Iparművészeti Alkotóközösség (No.2) (no 9200/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Hungary	08 Jun. 2010	Geda (no 41664/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Inadmissible as manifestly ill-founded (the applicant obtained adequate redress for the alleged violation)
Hungary	08 Jun. 2010	Sóti (no 23762/05) link	Alleged violation of Art. 5 (the applicant complained about spending more time in prison than required by the court decisions)	Inadmissible for non-exhaustion of domestic remedies
Italy	01 Jun. 2010	Baccini and Others (no 26423/03) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings and inadequate compensation awarded by the "Pinto" remedy), Art. 13 (lack of an effective remedy), Articles 17 and 34	Partly inadmissible as manifestly ill-founded (the applicants can no longer claim to be "victims" of a violation), partly inadmissible for non-respect of the six-month requirement
Italy	08 Jun. 2010	Maggio and Others (no 46286/09; 52851/08; 53727/08; 54486/08; 56001/08) link	Alleged violation of Art. 6 § 1 (retroactive effect of a law concerning readjustments of old-age pensions, lack of impartiality and independence of the judges), Art. 13 (lack of an effective remedy), Art. 14 and Prot. 12 (discrimination *vis a vis* persons who have worked abroad in a non-European union member State, persons who had chosen to work abroad, particularly in Switzerland and persons whose pensions have not already been liquidated), Art. 17, Art. 1 of Prot. 1 and Art. 2 of Prot. 4	Partly adjourned (concerning claims under Articles 6 § 1 and 13, Art. 1 of Prot. 1 and Art. 14), incompatible *ratione personae* (concerning claims under Art. 1 of Prot. 12), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Lithuania	08 Jun.	Aurimaa (no 17144/06)	Alleged violation of Art. 6 § 1 (excessive length of civil	Struck out of the list (friendly settlement reached)

	2010	link	proceedings)	
Moldova	01 Jun. 2010	Fusu (no 33238/06) link	Alleged violation of Art. 6 (unfairness of proceedings against the police), Articles 10 and 11 (interference with the applicant's rights to freedom of speech and freedom of assembly), Art. 13 (lack of an effective remedy against the decision dismissing the applicant's criminal complaint against the police)	Partly struck out of the list (unilateral declaration of the Government concerning interference with the freedom of assembly), partly incompatible *ratione materiae* (concerning claims under Articles 6 and 13, the Convention does not guarantee a right to secure the prosecution and conviction of a third party)
Moldova	08 Jun. 2010	Popescu (no 11367/06) link	Alleged violation of Art. 6 (unfairness of proceedings), Articles 8 and 13 (interception of the applicant's communications and lack of an effective remedy)	Partly struck out of the list (unilateral declaration of the Government concerning the interception of the applicant's communications), partly inadmissible as manifestly ill-founded (the applicant failed to substantiate the complaints concerning the remainder of the application)
Moldova	08 Jun. 2010	Romany Gaz Group (no 11662/05) link	Alleged violation of Art. 6 (breach of the applicant company's right of access to court had been breached as a result of the domestic courts' refusal to examine the case)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Poland	01 Jun. 2010	Wersel (no 860/08) link	Alleged violation of Art. 6 § 1 (the applicant's case had been adjudicated by an assessor who had not been independent)	Struck out of the list (applicant no longer wished to pursue his application)
Poland	01 Jun. 2010	Markevich (no 20920/04) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (excessive length of criminal proceedings), Art. 6 § 3 a) (lack of assistance of an interpreter), Art. 8 (restrictions on the applicant's right to receive visitors during his pre-trial detention)	Partly struck out of the list (unilateral declaration of the Government concerning excessive length of detention), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Article 6 §§ 1 and 3 a)), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Poland	08 Jun. 2010	Hoduń (no 31436/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention)	Struck out of the list (friendly settlement reached)
Poland	08 Jun. 2010	Misiukanis (no 51439/08) link	Idem.	Idem.
Romania	01 Jun. 2010	Falibac (no 19610/04) link	Alleged violation of Art. 3 (conditions of detention in Focşani prison)	Struck out of the list (the applicant no longer wished to pursue his application)
Russia	03 Jun. 2010	Averyanova and Others (no 18284/10) link	The applicants complained about prolonged non-payment of children allowances awarded to them by the domestic court	Struck out of the list (friendly settlement reached)
Russia	03 Jun. 2010	Babintsev (no 1059/05) link	Alleged violation of Art. 6 (the authorities' failure to comply with a final judgment in the applicant's favour)	Struck out of the list (the applicant no longer wished to pursue his application)
Russia	03 Jun. 2010	Yakhikhanov (no 61434/08) link	Alleged violation of Articles 2, 5, 6 and 13 (the applicant's father's killing, allegedly killed by State agents in 2002 in Grozny, in the Chechen Republic and lack of an effective remedy)	Idem.
Russia	03 Jun. 2010	Chernyak (no 20204/05) link	Alleged violation of Art. 3 (ill-treatment by the police officers and lack of an effective investigation)	Idem.
Slovakia	08 Jun. 2010	Kendera and Kenderová (no 9237/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Slovakia	08	Košarko (no	Idem.	Idem.

	Jun. 2010	9355/07) link		
Slovakia	08 Jun. 2010	Košarková (no 9746/07) link	Idem.	Idem.
Slovenia	01 Jun. 2010	Trnovšek (no 20844/03) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 13 (lack of an effective remedy)	Idem.
Slovenia	01 Jun. 2010	Križman (no 17654/06) link	Alleged violation of Art. 6 § 1 (excessive length of two sets of civil proceedings), Art. 13 (lack of an effective remedy)	Partly struck out of the list (the matter has been resolved at the domestic level concerning the first set of proceedings), partly inadmissible (for non-exhaustion of domestic remedies (concerning the remainder of the application)
Slovenia	01 Jun. 2010	Vrečar and Others (no 3402/06; 8141/06; 17289/06; 17623/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Slovenia	01 Jun. 2010	Snoj and Others (no 19006/05; 44980/05; 36628/06; 37531/06; 38122/06) link	Idem.	Struck out of the list (the matter has been resolved at the domestic level)
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Ristovska and Others (no 31631/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings in which the applicants claimed pension and disability contributions)	Struck out of the list (friendly settlement reached)
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Vanevi (no 10289/07) link	The applicants complained about the excessive length of property related proceedings	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Stefanovska (no 25692/07) link	The applicant complained about the excessive length of administrative proceedings	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Ristova and Others (no 25689/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings in which the applicants claimed pension and disability contributions)	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Apostolovski (no 23761/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings in which the applicant claimed annulment of his dismissal)	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Andovska and Others (no 23018/07; 23248/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings in which the applicants claimed pension and disability contributions)	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Strbevski (no 22723/07) link	The applicant complained about the excessive length of property related proceedings	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Dukoski (no 22226/07) link	Idem.	Idem.
"the Former Yugoslav Republic of Macedonia"	08 Jun. 2010	Dooel 'I Trans' (no 25695/07) link	The applicant company complained about the excessive length of civil proceedings for damages	Idem.
"the Former	08	Naumovski (no	The applicant complained about the	Idem.

Yugoslav Republic of Macedonia"	Jun. 2010	9321/07) link	excessive length of property related proceedings	
the Netherlands	01 Jun. 2010	Kemevuako (no 65938/09) link	Alleged violation of Art. 8 (domestic authorities' refusal to grant the applicant a residence permit)	Inadmissible (non-respect of the six-month requirement)
Turkey	01 Jun. 2010	Charalambous and Others (no 46744/07) link	The applicants are relatives of 29 Greek-Cypriot men, civilians and army personnel, who went missing in July-August 1974 following the invasion of northern Cyprus by Turkish armed forces Alleged violation of Articles 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 14, and 17, (disappearance and death of the applicants' relatives; lack of effective investigations), Art. 1 of Prot. 1 (deprivation of the financial support of their relative)	Partly adjourned (concerning the lack of investigations following the discovery of the remains of the applicants' relatives and the treatment which they suffer as a result), partly inadmissible (concerning the remainder of the application)
Turkey	01 Jun. 2010	Cacoyanni and Others (no 55254/00) link	Alleged violation of Articles 8, 14 and Art. 1 of Prot. 1 (deprivation of access to the applicants' family home and from exercising their right to the peaceful enjoyment of their property since 1974)	Partly struck out of the list (it is no longer justified to continue to examine the complaint in respect of the third applicant), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1, and Art. 8, partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Turkey	01 Jun. 2010	Skoullos Family (no 55819/00) link	Alleged violation of Art. 8 (deprivation of access to the documents of title necessary to prove the applicants' legal rights and obtain the return of their lands which have been transferred illegally to other persons, companies and Government authorities)	Inadmissible pursuant to Articles 34 and 35 (the identity and standing of the individuals claiming to be victims of violations had not been established, and their complaints had not been accompanied by the relevant supporting documents)
Turkey	01 Jun. 2010	Hatzigeorgiou and Others (no 56446/00) link	Alleged violation of Articles 2, 3, 4, 5, 8 and 14 (the applicants' relatives' disappearance), Art. 5 (the applicants were detained in a house in their village by the Turkish armed forces from 15 until 26 August 1974), Articles 8 and 1 of Prot. 1 in conjunction with Art. 14 (the applicants prevented from having access to their family home and from exercising their right to the peaceful enjoyment of their property)	Partly incompatible *ratione temporis* (Turkey had ratified the Convention after the time of events concerning claims under Articles 2 and 3), partly inadmissible for non-respect of the six-month requirement (concerning claims under Articles 2, 3 and 5), partly inadmissible for non-exhaustion of domestic remedies(concerning claims under Art. 1 of Prot. 1 and Articles 8 and 14)
Turkey	01 Jun. 2010	Nicolatos and Others (no 45663/99; 46155/99 etc.) link	Alleged violation of Art. 1 of Prot. 1 (the applicants' deprivation of access to, and enjoyment of, their properties in northern Cyprus), Art. 8 in conjunction with Art. 14 (lack of access to their homes), Art. 3 (the applicants suffering from racial discrimination), Art. 2 of Prot. 4	Partly struck out of the list (the claims under Art. 8 in the case no 51272/99 were the same as in case no 50648/99), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1 and Art. 8), and partly incompatible *ratione personae* (concerning the remainder of the application)
Turkey	01 Jun. 2010	Economides and Others (no 68110/01) link	Alleged violation of Art. 1 of Prot. 1 (the applicants' deprivation of access to, and enjoyment of, their properties in northern Cyprus), Art. 8 in conjunction with Art. 14 (lack of access to home)	Partly struck out of the list (concerning the first applicant), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1), and partly inadmissible as manifestly ill-founded (the sole fact of being the heir of someone who had once had a home in a

				particular location cannot, without more, entitle the person concerned to claim that lack of enjoyment of, or access to the property, shows any lack of respect for their own right to respect for home under Art. 8)
Turkey	01 Jun. 2010	Stylianou (no 33574/02) link	Idem.	Idem.
Turkey	08 Jun. 2010	Öcal and Yaşa (no 1709/05; 13673/05) link	Alleged violation of Art. 1 of Prot. 1 (non-payment of compensation following expropriation)	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	01 Jun. 2010	Çamyar (no 39896/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Turkey	01 Jun. 2010	Bingöl (no 38657/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Turkey	01 Jun. 2010	Kar (no 21412/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Turkey	01 Jun. 2010	Kaşlıoğlu (no 38365/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Turkey	01 Jun. 2010	Akkurt (no 29731/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Turkey	01 Jun. 2010	Gurel Turizm Sanayi Ve Ticaret A.S. (no 23530/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Turkey	01 Jun. 2010	Iyi (no 24072/06) link	Idem.	Idem.
Turkey	01 Jun. 2010	Doğan (no 12265/06) link	Idem.	Idem.
Turkey	01 Jun. 2010	Çelikkaya (no 34026/03) link	Alleged violations of Articles 5, 6 and 14 (discriminatory treatment in the application of amnesty law in comparison to other prisoners)	Inadmissible as manifestly ill-founded (the Court considered that the situation of the other prisoners were not similar to the applicant's situation)
Turkey	08 Jun. 2010	Kizmaz (no 28249/06; 28250/06; 28251/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 1 of Prot. 1 (insufficient compensation)	Partly adjourned (concerning the length of proceedings), partly inadmissible for non-respect of the six-month requirement claims under Art. 1 of Prot. 1 and Art. 6 § 1)
Ukraine	01 Jun. 2010	Kvashko (no 40939/05) link	Alleged violation of Art. 3 and Art. 13 (ill-treatment in police station; lack of timely medical assistance in detention and lack of an effective investigation), Art. 5 §§ 1 and 3 (unlawful detention and failure to bring the applicant promptly before a judge), Art. 5 § 4 (the applicant's inability to challenge his detention before the Appeal Court), Art. 5 § 5 (lack of adequate compensation) and Art. 6 § 1 (excessive length and unfairness of proceedings)	Partly adjourned (concerning claims under Art. 3, Art. 5§§ 1, 3 and 5), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)

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.

No communicated cases were published on the Court's website for the period under the observation.

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

EU's accession to the Convention (07.07.2010)

Official talks started on 7 July on the European Union's accession to the Convention. Thorbjørn Jagland, the Secretary General of the Council of Europe, and Viviane Reding, Vice-President of the European Commission, marked the beginning of this joint process at a meeting in Strasbourg. They discussed how to move the process forward so that citizens can swiftly benefit from stronger and more coherent fundamental rights protection in Europe. The EU's accession to the ECHR is required under Article 6 of the Lisbon Treaty and foreseen by Article 59 of the Convention as amended by the Protocol 14. Press release

Inadmissibility decision (28.06.2010)

The Court applied for the first time the criterion of admissibility introduced by Protocol n° 14 (please see page 16 for more details on the decision). Press release, more information about Protocol No. 14

Part II : The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 14 to 15 September 2010 (the 1092nd meeting of the Ministers' deputies).

B. General and consolidated information

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights: http://www.coe.int/t/dghl/monitoring/execution/default_en.asp

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

http://www.coe.int/t/e/human_rights/execution/02_Documents/PPIndex.asp#TopOfPage

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

A. European Social Charter (ESC)

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". This conference was held in Strasbourg from 21-22 June 2010. Mr. Stangos' speech *(French only);* Programme

The Committee of Ministers adopts a resolution in the case European Roma Rights Centre v. France (30.06.2010)

Further to the decision on the merits of the European Committee of Social Rights with regard to Complaint no. 51/2008, in which it was ruled that France does not respect the right of Travellers to housing, the Committee of Ministers adopted Resolution Res/CM/ChS(2010)5 on 30 June 2008. The Committee of Ministers takes note of the Government's statement indicating its intention to bring the situation into conformity with the Revised Charter. All case documents relative to this complaint may be found on the Collective Complaint webpage.

Decision on admissibility now public in the case European Council of Police Trade Unions v. Portugal (02.07.2010)

The decision of admissibility of the European Committee on Social Rights in the case *European Council of Police Trade Unions v. Portugal* (no. 60/2010) is now available online. In this case the complaint organisation alleges that the situation in Portugal is not in conformity with Articles 4 (right to a fair remuneration), 6 (right to bargain collectively) and 22 (right of workers to take part in the determination and improvement of working conditions and the working environment) of the Revised European Social Charter. Decision on admissibility; Further information on collective complaints

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

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

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

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

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

Council of Europe anti-torture Committee visits Italy (22.06.2010)

A delegation of the CPT carried out an ad hoc visit to Italy from 14 to 18 June 2010. It was the Committee's ninth visit to this country. During the visit, the delegation examined three issues: the provision of health care in prisons, further to the transfer of responsibility from the Prison Administration to the National Health Service; the policies adopted and measures taken to reduce the incidence of suicides and acts of self-harm in prison; and the system in place to investigate cases of alleged ill-treatment of arrested and/or detained persons.

In the course of the visit, the delegation held consultations with officials of the Ministry of Foreign Affairs, Ministry of Health, Ministry of the Interior and Ministry of Justice, as well as with representatives of the Carabinieri and the Guardia di Finanza.

The delegation met with Mr Vitaliano ESPOSITO, the Prosecutor-General, Mr Giovanni FERRARA, Chief Prosecutor of Rome, and Mr Gabriele FERRETTI, Chief Prosecutor of Teramo, and a number of prosecutors at the Supreme Court and the Rome district Court. The delegation also met with Senator Albertina Soliani and Deputy Leoluca Orlando, each representing a parliamentary committee active in the focus areas of the CPT's visit. The delegation met Angiolo MARRONI, the Garante dei detenuti (detained persons' Ombudsman) for the Lazio region. Further, it met representatives of non-governmental organisations active in areas of concern to the CPT.

Council of Europe anti-torture Committee visits Lithuania (23.06.2010)

A delegation of the CPT carried out a visit to Lithuania from 14 to 18 June 2010. One of the main objectives of the visit was to examine the measures taken by the Lithuanian authorities to implement the recommendations made by the CPT after its 2008 visit to Kaunas Juvenile Remand Prison and Correction Home. The visit also provided an opportunity to review the treatment of persons detained in police establishments. Another issue addressed by the CPT's delegation was the alleged existence some years ago on Lithuanian territory of secret detention facilities operated by the Central Intelligence Agency of the United States of America. The delegation had talks with the Chairman of the Lithuanian Parliament's Committee on National Security and Defence, Arvydas ANUŠAUSKAS, about the findings of the investigation recently undertaken by the Committee in relation to this matter. It met members of the Prosecutor General's Office entrusted with the pre-trial investigation which had subsequently been launched, in order to discuss the scope and progress of the investigation. And the issue was also raised at a meeting with Jonas MARKEVIČIUS, Chief Adviser to the President of Lithuania. Further, the delegation visited the facilities referred to as "Project No. 1" and "Project No. 2" in the report of the Parliamentary Committee. At the end of the visit, the CPT's delegation had consultations with Remigijus ŠIMAŠIUS, Minister of Justice, and Algimantas VAKARINAS, Vice-Minister of the Interior, and presented to them its preliminary observations.

Council of Europe anti-torture Committee visits the United Kingdom (24.06.2010)

A delegation of the CPT carried out a visit to the United Kingdom on 20 and 21 June 2010. It was a follow-up to a visit organised by the CPT earlier in the year. The purpose of the visit was to examine the situation of Radislav KRSTIĆ, a prisoner convicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) who is serving his sentence in the United Kingdom. On 7 May 2010, some two months after having been visited by a delegation of the CPT, this prisoner was assaulted by other inmates in his cell at Wakefield Prison. In the light of this event, the CPT considered it necessary to observe for itself the prisoner's current conditions and treatment, and to hold discussions with senior officials responsible for his care. The CPT's delegation consisted of Wolfgang HEINZ, Head of delegation and member of the Committee in respect of Germany, Veronica PIMENOFF, Expert for psychiatry at Helsinki Administrative Court (Finland), and Hugh CHETWYND, Head of Division, of the CPT's Secretariat.

Council of Europe anti-torture Committee publishes response of the Swedish authorities (01.07.2010)

The CPT has published on 1 July the response of the Swedish Government to the report on the CPT's most recent periodic visit to Sweden, in June 2009. The response has been made public at the request of the Swedish authorities. The CPT's report on the June 2009 visit was published on 11 December 2009. In their response, the Swedish authorities express the view that the new system for the investigation of complaints of police misconduct, according to which internal investigation activities are to be moved from the local police authorities to a separate unit within the National Police Board, will ensure the independence and impartiality of the investigative process. All cases of alleged police misconduct are referred to a special national department for police cases, consisting of high-rank prosecutors and subordinated directly to the Prosecutor General, which decides whether to open a preliminary investigation and what investigative measures to take. In reaction to the CPT's recommendations aimed at ensuring that the imposition of restrictions on remand prisoners is an exceptional measure rather than the rule, the Swedish authorities indicate that the new Act on Treatment of Persons Arrested or Remanded in Custody, which should enter into force on 1 April 2011, includes the possibility to appeal a decision on specific restrictions to the Court of Appeal, and ultimately to the Supreme Court. In response to the CPT's recommendation that the practice of occasionally holding on prison premises persons detained under aliens legislation be stopped, the Swedish authorities state that the Commission of Inquiry on Detention, which was set up to carry out a thorough examination of the legal framework on detention under the Aliens Act, was expected to

submit its proposals on 15 June 2010. This Commission is also mandated to address issues related to the provision of health care to detained foreign nationals.

Council of Europe anti-torture Committee publishes Albanian response to 2008 visit report (02.07.2010)

The CPT has published on 2 July the response of the Albanian Government to the CPT's report on the June 2008 visit to Albania. The response has been made public at the request of the Albanian authorities. It provides information on various measures taken by the authorities in the light of the recommendations made by the Committee in the visit report, in particular as regards the treatment of persons detained by the police and conditions of detention in remand prisons and pre-trial detention centres.

C. European Commission against Racism and Intolerance (ECRI)

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

Italy: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities (21.06.2010)

A delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities visited Italy from 21-24 June 2010 in the context of the monitoring of the implementation of this convention in Italy.

Armenia: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities (21.06.2010)

A delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities visited Yerevan and Ararat Marz, from 21-24 June 2010 in the context of the monitoring of the implementation of this convention in Armenia. This was the third visit of the Advisory Committee to Armenia. The Delegation held meetings with the representatives of all relevant ministries, public officials, as well as persons belonging to national minorities. The Delegation included Mr. Gáspár BIRO (member of the Advisory Committee elected in respect of Hungary) and Mr Gjergj SINANI (member of the Advisory Committee elected in respect of Albania). They were accompanied by Mr Krzysztof ZYMAN, Secretariat of the Framework Convention for the Protection of National Minorities and of the DH-MIN.

Note: Armenia submitted its third State Report under the Framework Convention in November 2009. Following its visit, the Advisory Committee will adopt its own report (called Opinion), which will be sent to the Armenian Government for comments. The Committee of Ministers of the Council of Europe will then adopt conclusions and recommendations in respect of Armenia.

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

(Adopted by the Committee of Ministers on 16 June 2010 at the 1088th meeting of the Ministers' Deputies) Declare elected to the list of experts eligible to serve on the Advisory Committee on the Framework Convention for the Protection of National Minorities on 16 June 2010: Mr Francesco PALERMO in respect of Italy.

Albania: Follow-up Seminar on the implementation of the Framework Convention (01.07.2010)

The Albanian authorities and the Council of Europe organised a follow-up seminar on 1 July to discuss how the findings of the monitoring bodies of the Framework Convention are being implemented in Albania.

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

Slovenia: receipt of the third cycle State Report (01.07.2010)

Slovenia submitted on 28 April 2010 its third state report in English and Slovenian, pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers.

Czech Republic: receipt of the third cycle State Report (01.07.2010)

The Czech Republic submitted on 3 May 2010 its third state report in English, pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers.

Norway: receipt of the third cycle State Report (01.07.2010)

Norway submitted on 1 July its third state report in English, pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers.

Liechtenstein: Adoption of the 3rd Committee of Ministers' Resolution (02.07.2010)

The Committee of Ministers has adopted a resolution on the protection of national minorities in Liechtenstein. The resolution contains conclusions and recommendations, highlighting positive developments but also a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

E. Group of States against Corruption (GRECO)

GRECO publishes its Tenth General Activity Report, an overview of 2009 (24.06.2010)

The report provides a synthesis of all activities of GRECO in 2009, whose highlight was GRECO's 10th Anniversary, celebrated on 5 October. A number of high-level speakers emphasised that GRECO had set concrete benchmarks in a great number of areas, including transparency of political financing, which policy makers had to bear in mind. The need for a collective effort to ensure that the international anti-corruption movement was not jeopardised through duplication of efforts, the setting of conflicting standards and a multiplication of reporting duties on States was also clearly stated. In addition to an account of co-operation with other international players, and the European Union in particular, the report for 2009 contains a feature article on "the experience with the criminal offence of trading in influence in France", which also presents examples of good practice in this field. In his presentation of the report to the Committee of Ministers earlier this month, GRECO's President, Mr Drago KOS, stressed that the international anti-corruption movement would be well advised to build on the current momentum to ensure sustainable and properly designed anti-corruption policies. He went on to stress that local and regional authorities which often face significant corruption risks in their daily operations have also an important role to play. Link to the report

GRECO publishes horizontal study on Political financing (29.06.2010)

"Political Financing: GRECO's first 22 evaluations" focuses on three key topics examined by GRECO during its current Third Evaluation Round, namely the transparency of political funding, monitoring compliance with existing regulations and the penalties for those who breach those regulations. The report brings to light weaknesses that are common to several political systems and suggests the transposition of positive practices identified. As the author of this innovative study, Mr Yves-Marie DOUBLET (France), points out in the introduction, although political systems can differ significantly from one member state to another, the principles set out in the Council of Europe Recommendation (2003) 4 on common rules against corruption in the funding of political parties and electoral campaigns are "common to all these countries and are of critical importance to them, whatever the form of their institutions, because they share the same democratic values." The report contains a number of conclusions emphasising, inter alia, the importance of proper disclosure and truly effective monitoring of financial information of parties and election candidates. It also calls for a more general discussion to highlight the interdependence of the different problems identified. For such an approach, the Council of Europe Recommendation – which is the only international text laying down these key elements of a smooth functioning democracy – provides an excellent basis. Clearly, debate on political financing is far from over and further input is to be expected from GRECO's on-going evaluation work.

At the end of the Third Evaluation Round, a total of 47 member states will have been evaluated against the standards of the Recommendation. The action taken by member States to implement GRECO's recommendations is assessed in a specific compliance procedure. Link to the report

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

FATF Plenary, Amsterdam (23-25.06.2010)

MONEYVAL participated in the 3rd FATF Plenary - XXI. The Chairman's summary provides an overview of the major outcomes of the Plenary, during which India became a full member of the FATF and the mutual evaluations of the Kingdom of Saudi Arabia, India and Brazil were approved. Also, as part of its on-going action to identify and work with jurisdictions with strategic AML/CFT deficiencies, the FATF has updated its two public documents issued in February 2010: FATF Public Statement; Improving AML/CFT Compliance: On-going Process

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

Azerbaijan **29th state to become Party to the Council of Europe Convention on Action against Trafficking in Human Beings (23.06.2010)**

The Council of Europe Convention on Action against Trafficking in Human Beings entered into force on 1 February 2008. The Convention was ratified by Azerbaijan on 23 June 2010 and will enter into force for this state on 1 October 2010.

Part IV: The inter-governmental work

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

22 June 2010

Montenegro ratified the European Convention on Nationality (ETS No. 166).

23 June 2010

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

25 June 2010

Georgia signed the European Convention on Consular Functions (ETS No. 061).

30 June 2010

The **United Kingdom** ratified the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182).

Belgium ratified the European Convention on the International Validity of Criminal Judgments (ETS No. 070).

1 July 2010

Entry into force of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/Rec(2010)10E / 30 June 2010

Recommendation of the Committee of Ministers to member States on the role of women and men in conflict prevention and resolution and in peace building (Adopted by the Committee of Ministers on 30 June 2010 at the 1089th meeting of the Ministers' Deputies)

CM/Res(2010)3E / 30 June 2010

Resolution on the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) (Adopted by the Committee of Ministers on 30 June 2010 at the 1089th meeting of the Ministers' Deputies)

CM/ResCMN(2010)9E / 30 June 2010

Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Liechtenstein (Adopted by the Committee of Ministers on 30 June 2010 at the 1089th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Committee of Ministers Chair addresses the Assembly (21.06.2010)

The Chair of the Committee of Ministers, Antonio Miloshoski, has described his country's priorities over the coming months: supporting the Interlaken process to ensure the long term effectiveness of the European Court of Human Rights, protecting national minorities and marginalised groups such as Roma, and encouraging intercultural dialogue and the participation of young people in public affairs. Speech; Video of the speech

The Council of Europe condemns bus bombing in Istanbul (22.06.2010)

"We strongly condemn today's terrorist attack on a bus in Istanbul, in which three people have been killed, including a child," the Chair of the Committee of Ministers Antonio Miloshoski and the President

of its Parliamentary Assembly Mevlüt Çavusoglu said in a joint statement on 22 June. "Terrorism remains the greatest threat to the values the Council of Europe stands for," they added.

President Ivanov: Council of Europe "best protection of the continent in time of crisis" (24.06.2010)

Addressing the Parliamentary Assembly on 24 June, President Gjorge Ivanov recalled the priorities of his country's current Chairmanship of the Organisation's decision making body, the Committee of Ministers: strengthening human rights protection, fostering integration while respecting diversity, promoting youth participation. In his speech, President Ivanov underlined the need for "Pax Europeana", which he described as "an open space where there is freedom of movement of people, ideas, capital and products. Open space in which each economy can grow and spread. Where there is tolerance and celebration of diversity, where everyone can enjoy his rights and identity. An open space in which everyone is respected for what he is, regardless where he lives and where he works. An open space that is fertile soil for building internal trust and confidence among states." President Ivanov concluded his speech by describing the Council of Europe as "best protection of the continent in time of crisis." Speech; Video of the speech

2010 International Day in support of victims of torture (26.06.2010)

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

"Today we pay our respects to all victims of torture. We also pay tribute to all those who work to denounce cases of torture and provide help to alleviate their tragic consequences. The Council of Europe has been fighting torture during the more than 60 years of its existence. All 47 Council of Europe member States stand behind the prohibition of this and other inhuman or degrading treatment or punishment, as required by the European Convention on Human Rights."

Strengthening the dialogue between the Council of Europe and Georgia (02.07.2010)

The Chairman of the Committee of Ministers of the Council of Europe, Antonio Miloshoski accompanied Secretary General Thorbjørn Jagland to Tbilisi on 2 July for talks with President Mikheil Saakashvili, Foreign Minister Grigol Vashadze, Vice Prime Minister Yakobashvili and Chairman of Parliament Bakradze. Dialogue and co-operation between the Council of Europe and Georgia were at the centre of the discussions, as were the possibilities of an enhanced Council of Europe action for the protection of human rights in the areas affected by the August 2008 conflict.

Part V: The parliamentary work

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A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe (adopted by the Assembly on 22-25 June 2010)

Resolution 1742: Voluntary return programmes: an effective, humane and cost-effective mechanism for returning irregular migrants

Recommendation 1926: Voluntary return programmes: an effective, humane and cost-effective mechanism for returning irregular migrants

Recommendation 1924: The situation of Roma in Europe and relevant activities of the Council of Europe

Resolution 1740: The situation of Roma in Europe and relevant activities of the Council of Europe

Resolution 1741: Readmission agreements: a mechanism for returning irregular migrants

Recommendation 1925: Readmission agreements: a mechanism for returning irregular migrants

Resolution 1739: The situation in Kosovo* and the role of the Council of Europe

Recommendation 1923: The situation in Kosovo* and the role of the Council of Europe

Resolution 1738: Legal remedies for human rights violations in the North-Caucasus Region

Recommendation 1922: Legal remedies for human rights violations in the North-Caucasus Region

Resolution 1747: The state of democracy in Europe and the progress of the Assembly's monitoring procedure

Resolution 1746: Democracy in Europe: crisis and perspectives

Recommendation 1928: Democracy in Europe: crisis and perspectives

Resolution 1744: Extra-institutional actors in the democratic system

Resolution 1745: The political consequences of the economic crisis

Resolution 1743: Islam, Islamism and Islamophobia in Europe

Recommendation 1927: Islam, Islamism and Islamophobia in Europe

Resolution 1750: The functioning of democratic institutions in Azerbaijan

Resolution 1749: The handling of the H1N1 pandemic: more transparency needed

Recommendation 1929: The handling of the H1N1 pandemic: more transparency needed

Resolution 1748: Flare-up of tension in the Middle East

Resolution 1753: Forests: the future of our planet

Resolution 1752: Decent pensions for women

Recommendation 1932: Decent pensions for women

Resolution 1751: Combating sexist stereotypes in the media

Recommendation 1931: Combating sexist stereotypes in the media

Recommendation 1930: Prohibiting the marketing and use of the "Mosquito" youth dispersal device

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

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

- *Countries*

Croatian President outlines human rights progress in Croatia (21.06.2010)

In his first address ever before the Parliamentary Assembly as Croatian President, Ivo Josipovic called the role of the Council of Europe "indispensable" for promoting human rights and described in detail the condition of democracy, human rights and freedoms in his country. He outlined progress made and challenges still to be faced with regard to minority rights, refugees and displaced persons, fighting corruption, reforming the judiciary, cooperating with the International Criminal Tribunal for the former Yugoslavia and working with neighbours in the Balkans to improve regional stability. He expressed "his conviction that the Republic of Croatia is in the final stage of negotiations for accession to the European Union as the 28th member". Speech by Ivo Josipovic

PACE elects its Vice-President with respect to Hungary (22.06.2010)

PACE elected Márton Braun (Hungary, EPP/CD) Vice-President of the Assembly with respect to Hungary.

PACE elects Vincent Anthony De Gaetano judge of the ECHR with respect to Malta (22.06.2010)

PACE elected Vincent Anthony De Gaetano as judge to the European Court of Human Rights with respect to Malta. Mr De Gaetano, having obtained an absolute majority of votes cast, is elected a judge of the European Court of Human Rights for a term of office of 9 years starting as of the date of taking up office and in any event not later than 3 months as from 22 June 2010. Judges are elected by PACE from a list of three candidates nominated by each State which has ratified the European Convention on Human Rights.

PACE elects Angelika Nussberger judge of the ECHR with respect to Germany (22.06.2010)

PACE elected Angelika Nussberger as judge to the European Court of Human Rights with respect to Germany. Mrs Nussberger, having obtained an absolute majority of votes cast, is elected a judge of the European Court of Human Rights for a term of office of 9 years starting on 1 January 2011. Judges are elected by PACE from a list of three candidates nominated by each State which has ratified the European Convention on Human Rights.

Milo Djukanovic: Montenegro committed to building civil society to European standard (22.06.2010)

In his address to the Parliamentary Assembly, Prime Minister of Montenegro Milo Djukanovic described progress so far to promote democracy, the rule of law and economic stability and development since his country joined the Council of Europe as the 47th member state in 2007. He praised the Venice Commission's contribution to 'the quality of legislation' in his country and stressed his support for reform of the European Court of Human Rights, which would introduce case screening methods and promote the building of stable legal frameworks and independent judiciaries at national levels. 'In this process, the expertise and intensive support of the Council of Europe are indispensable,' he said. He took stock of 'notable results' in fighting corruption and organised crime, and said that Montenegro has made progress in implementing recent GRECO and MONEYVAL recommendations. Video of the speech

Ukraine: any regression in the respect of democratic freedoms "would be unacceptable" (23.06.2010)

In an information note on their fact-finding visit to Kyiv (1-4 June 2010), declassified by the Monitoring Committee on 22 June, the co-rapporteurs Renate Wohlwend (Liechtenstein, EPP/CD) and Mailis Reps (Estonia, ALDE) express their concern about the increasing number of allegations that democratic freedoms, such as freedom of assembly, freedom of expression and freedom of the media have "come under pressure in recent months". Any regression in the respect for and protection of these rights, they said, "would be unacceptable for the Assembly". Information note

Moldova: a referendum is "the sole possible solution" (23.06.2010)

In an information note on recent developments in Moldova, declassified by the Monitoring Committee on 22 June, the co-rapporteurs Josette Durrieu (France, SOC) and Egidijus Vareikis (Lithuania, EPP/CD) underline one more time that "it is imperative that the present institutional crisis be swiftly resolved". They call for the organisation of a referendum on the choice of the presidential election procedure as "the sole possible solution". This will allow, they say, to give the present political class "a clear indication of the voters' choice". Information note

Azerbaijan: the forthcoming parliamentary elections must be in full compliance with European standards (24.06.2010)

Ahead of the parliamentary elections in November 2010, PACE called on the Azerbaijani authorities "to ensure the necessary conditions for the full compliance of the forthcoming elections with the European standards". In line with the conclusions of the monitoring co-rapporteurs, Andres Herkel (Estonia, EPP/CD) and Joseph Debono Grech (Malta, SOC), it encouraged the authorities to co-operate with the Venice Commission in order to continue with the revision of the electoral code and to "generate conditions for a fair electoral campaign" by fully implementing the law on the freedom of assembly and by ensuring the freedom of the media. In this context, the PACE called on the Azerbaijani authorities "to pass on a clear message, at the highest political level, that electoral fraud will not be tolerated" and urged all political parties to take part in the forthcoming elections. The Assembly stressed that these elections were all the more important given that "it was necessary to reinforce the application of the constitutionally-guaranteed principle of the separation of powers" and, especially, to strengthen the parliament's role vis-à-vis the executive. Lastly, with regard to the media situation, the Assembly condemned the arrests, intimidation, harassment, and physical threats of journalists, reiterated its position that defamation should be decriminalised and called on the authorities to release Eynulla Fatullayev as ordered by the European Court of Human Rights. Adopted resolution

PACE rapporteurs urge Armenian authorities to revise media legislation (24.06.2010)

The two co-rapporteurs on Armenia of PACE, John Prescott (United Kingdom, SOC) and Georges Colombier (France, EPP/CD), have welcomed a series of initiatives outlined in the reply of the Speaker of the Armenian Parliament to their letter recommending the establishment of a clear roadmap for reforms in Armenia. While not able to give a detailed assessment of the initiatives outlined in the letter at this stage, they cautioned that more needs to be done to ensure that the reforms address the important issues raised by the Assembly. "With regard to the electoral code outlined in the Speaker's letter, we note that the draft code has not been discussed with the opposition in the framework of the working group especially set up for this purpose. It is clear to us that any election code that has not been discussed with the different political forces in the country, and that is not based on an as wide as possible a consensus among them, will not help to create the necessary public trust in the electoral system," said the co-rapporteurs.

In addition, the co-rapporteurs expressed their concern about the amendments to the Law on Broadcasting. They noted that several highly-respected organisations have criticised this law for failing to ensure the required pluralistic media environment in Armenia. In that respect, they underscored that in the view of the Assembly, as adopted in several of its resolutions, the reform of the legal framework for the media in Armenia should not only result in a fully transparent licensing procedure, but also in a far more diverse and pluralistic media environment than is currently the case in Armenia. The rapporteurs expressed their satisfaction with the direction of the police reform and reform of the justice sector. In that respect they stressed that the independence of the proposed police complaints body should be fully guaranteed in law and that this body should have wide investigative powers. Moreover, they stressed that the recommendations contained in the report of OSCE/ODIHR on the trial monitoring project in Armenia should be fully taken into account when elaborating the reforms in the

justice sector. "We will return to Armenia in the autumn to discuss these issues in full detail with the authorities. Our discussions will also be based upon the results of a hearing in the Monitoring Committee with a wide range of Armenian political forces that we intend to organise," they concluded.

Democratic development in Georgia 'continues unabated', say PACE monitors (28.06.2010)

Democratic development in Georgia "continues unabated", despite some set-backs and despite the war, PACE's two monitoring co-rapporteurs on the country have said. In an information note on their visit to Tbilisi in March, made public today, Kastriot Islami (Albania, SOC) and Michael Aastrup Jensen (Denmark, ALDE) welcomed a second wave of democratic reforms which took place in the aftermath of the war. But they warned that change should be based on wide consensus, and "should not be imposed by the dominant political force". The two parliamentarians pledged to return to Georgia before the summer recess. Information note (PDF)

- *Themes*

Lawful medical care and conscientious objection: PACE's Health Committee calls for regulations (21.06.2010)

Considering the fact that the practice of conscientious objection arises in the field of health care when healthcare providers refuse to provide certain health services based on religious, moral or philosophical objections, the Health Committee of PACE called on European governments to develop regulations that define conscientious objection in that field. The draft resolution, prepared by Christine McCafferty (United Kingdom, SOC), emphasizes the need "to balance the right of conscientious objection of an individual not to perform a certain medical procedure" with the responsibility of the profession and "the right of each patient to access lawful medical care in a timely manner". The regulations should "guarantee the right to conscientious objection only to individual healthcare providers directly involved in the performance of the procedure in question, and not to public/state institutions such as public hospitals and clinics as a whole". Healthcare providers should be obliged to provide "the desired treatment to which the patient is legally entitled despite [*the healthcare provider's*] conscientious objection in cases of emergency (notably danger to the patient's health or life), or when referral to another healthcare provider is not possible (in particular when there is no equivalent practitioner within reasonable distance)."

The draft resolution is due to be debated by the Parliamentary Assembly during its next Autumn plenary Session (4-8 October 2010). Draft resolution

The protection of witnesses: a cornerstone for justice and reconciliation in the Balkans (22.06.2010)

"Improving the protection of witnesses is essential for the success of the work of justice and a key means of achieving reconciliation in the Balkans," said Jean-Charles Gardetto (Monaco, EPP/CD). In his report adopted by the PACE's Committee on Legal Affairs and Human Rights on 21 June, Mr Gardetto assesses the effectiveness of the protection and support programmes for witnesses to the war crimes committed in the former Yugoslavia in proceedings at national level (in Bosnia and Herzegovina, Croatia, Montenegro, Serbia and Kosovo[*]) and international level, before the International Criminal Tribunal for the former Yugoslavia. "The systems currently in place do not always provide adequate protection to the witnesses giving evidence in war crimes cases in national courts," the rapporteur said. He stressed that that "the consequences are sometimes tragic", referring in his report to people who had been murdered in Kosovo just as they were about to give evidence, the threats to and intimidation of witnesses in Bosnia and Herzegovina, and the disclosure of the identity of protected witnesses in Croatia and Serbia. "It is urgent to protect witnesses since valuable testimonies – and with them a part of the truth – could be lost forever", he concluded. Mr Gardetto's report is due to be debated at a forthcoming session. Report (PDF); Memorandum

PACE President encourages young women to claim leadership roles (28.06.2010)

"We are witnessing a revolution of sorts – in Europe and the world – in which women are rising in large numbers to claim leadership roles in our societies," said PACE President Mevlüt Çavusoglu, encouraging young female leaders in his opening address on 28 June to the fifth annual Strasbourg Summer University for Democracy. "Much remains to be done, and the Council of Europe and its

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

Parliamentary Assembly are in the midst of this struggle which I consider vital for the good management of the world of the future," he added. Speaking on the theme 'Crisis of Leadership', the President recalled the adoption last week of a PACE Resolution on "democracy in Europe: crisis and perspectives", which called for the setting up of a Strasbourg Democracy Forum, as an umbrella structure providing an international reference in the field of democracy and a laboratory for new ideas and proposals. "All the major institutions of the Council would participate and a Delegate for Democracy could be appointed to lead and inspire this new Forum and provide continuous reactivity on democracy-related issues. This could give greater prominence and visibility to the Council of Europe's message on democracy. I submit this idea to you, which in my view, merits serious consideration on our part," he said.

He added that leadership, although necessary in all parts of society, always had to start with political leadership, be it in government or in parliament. "At the present time, governments can no longer spend much additional money, because little is left and a country's credit rating might be in danger of downgrading if they do. So here it takes real leadership on the part of many of our governments and parliaments, to explain to the people why budget deficits and the national debt must come down, and to suggest ways in which the burden can be shared equitably among different groups in society. In addition, much leadership will have to be displayed in co-ordinating action with other European countries on how to do this, so that the actions of one do not compromise those of the others," the PACE President explained. He concluded by announcing that the Akdeniz University in his home town of Antalya, Turkey, would be very happy to play an active role in relation to the Summer University and the Schools of Political Studies. Speech by PACE President

2010 International Day in support of victims of torture (28.06.2010)

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

"Today we pay our respects to all victims of torture. We also pay tribute to all those who work to denounce cases of torture and provide help to alleviate their tragic consequences. The Council of Europe has been fighting torture during the more than 60 years of its existence. All 47 Council of Europe member States stand behind the prohibition of this and other inhuman or degrading treatment or punishment, as required by the European Convention on Human Rights. Beyond the Human Rights Convention, Europe has managed to set up a unique non-judicial procedure to prevent any such treatment through its European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. We highly value the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and its visits to places of detention in member States. We call for the publication by all member states of CPT reports."

The impact of the Lisbon Treaty on the Council of Europe (29.06.2010)

In an information note on her fact-finding visit to Brussels from 9 to 10 June 2010, the rapporteur on the impact of the Lisbon Treaty on the Council of Europe (Kerstin Lundgren, Sweden, ALDE) considers that while the technical details posed by the EU accession to the European Convention on Human Rights should be tackled at the intergovernmental level, it is the role of parliamentarians "to provide a powerful political signal in favour of a smooth accession process and its rapid completion". According to Mrs Lundgren, accession modalities "should be kept as simple as possible". Information note on the fact-finding visit to Brussels

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

A. Country work

Azerbaijan should urgently improve the protection of freedom of expression (29.06.2010)

"Freedom of expression is curtailed in Azerbaijan today - major improvements are needed" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, presenting on 29 June his report on the country. Following a visit carried out in March, the report focuses on freedom of expression and association, conduct of law enforcement officials, administration of justice, and contains some observations on the visit to the Autonomous Republic of Nakhchivan. http://www.coe.int/t/commissioner/News/2010/100629Azerbaijan_en.aspRead the report

B. Thematic work

European states must respect Strasbourg Court's orders to halt deportations (25.06.2010)

"Some European states have deported persons to countries where they are at risk of torture or other ill-treatment, despite clear decisions by the European Court of Human Rights (ECtHR) not to deport them. This disrespect towards the ECtHR and the rule of law puts human lives in serious danger" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing on 25 June his human rights comment. Read the Human Rights Comment

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

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

European NPM Project: 2nd NPM On-site Visit and Exchange of Experiences: *"Organising, carrying out and reporting on preventive visits to various types of places of deprivation of liberty: an exchange of experiences between the National Preventive Mechanism against torture (NPM) of Georgia and experts from the SPT, former members of the CPT and the APT"*, Tbilisi, Georgia, 29 June – 2 July 2010

This On-site Exchange of Experiences was organised by the NHRS Unit, European NPM Project team and the NPM of Georgia – the Office of the Public Defender – as part of the so-called "European NPM Project" and funded by a joint European Commission – Council of Europe project: "the Peer-to-Peer II Project" and by the Human Rights Trust Fund[*]. The Association for the Prevention of Torture (APT, Geneva) helped as the Council of Europe's implementing partner.

The overall aim of the four-day On-site Exchange was to foster an exchange of experiences and cooperation between members and former members of the SPT, CPT and NPM in order to build and enhance capacity to carry out detention monitoring for the prevention of torture. The specific objectives were: Analyze the strengths, weaknesses, opportunities and challenges of the NPM, as regards its mandate and functioning; Exchange on the practice of preventive monitoring, particularly with regards the methodology of conducting visits and following-up on monitoring visits; Prepare a preventive monitoring visiting exercise to a place of deprivation of liberty in Georgia; Jointly carry out the visiting exercise; Debrief jointly on the findings and methodology of the visiting exercise.

The exchange of experiences in Tbilisi involved 26 participants from the NPM of Georgia, including the Public Defender of Georgia, on the one side, and on the other side members or former members of the SPT, the CPT and the APT. Two members of the NHRS Unit served as facilitators.

On the first day of the meeting the designation, composition, functioning and general working methods of the Georgian NPM in the light of the OPCAT[†] prescriptions were examined, as well as preparation undertaken for a common on-site visiting exercise on the second day to a place of deprivation of liberty for which the participants split in small groups. On the third and fourth days the international experts presented their observations on the working methods of the national experts and these observations were discussed in plenary.

A confidential debriefing paper for the benefit of all participants in the exchange is under preparation.

[*] The Human Rights Trust Fund (HRTF) was established in March 2008 as an agreement between the Ministry of Foreign Affairs of Norway as founding contributor, the Council of Europe and the Council of Europe Development Bank. Germany and the Netherlands have joined in as contributors.

[†] The Optional Protocol to the UN Convention Against Torture (OPCAT) obliges states Parties to set up an NPM within one year of ratification.