DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS

LEGAL AND HUMAN RIGHTS CAPACITY BUILDING DEPARTMENT

LEGISLATIVE SUPPORT AND NATIONAL HUMAN RIGHTS
STRUCTURES DIVISION

National Human Rights Structures Unit

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 22 June 2010

Regular Selective Information Flow (RSIF) for the attention of the National Human Rights Structures (NHRSs)

Issue n°41 covering the period from 10 to 23 May 2010

Council of Europe

Conseil de l'Europe

European Union

Union européenne

"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*

For any queries, please contact:
markus.jaeger@coe.int

TABLE OF CONTENTS

PART I : THE ACTIVITIES OF THE EUROPEAN COURT OF HUMAN RIGHTS 5

A. Judgments 5
1. Judgments deemed of particular interest to NHRSs 5
2. Other judgments issued in the period under observation 23
3. Repetitive cases 25
4. Length of proceedings cases 26

B. The decisions on admissibility / inadmissibility / striking out of the list including due to friendly settlements 27

C. The communicated cases 34

D. Miscellaneous (Referral to grand chamber, hearings and other activities) 36

PART II : THE EXECUTION OF THE JUDGMENTS OF THE COURT 37

A. New information 37

B. General and consolidated information 37

PART III : THE WORK OF OTHER COUNCIL OF EUROPE MONITORING MECHANISMS 38

A. European Social Charter (ESC) 38

B. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) 38

C. European Commission against Racism and Intolerance (ECRI) 38

D. Framework Convention for the Protection of National Minorities (FCNM) 38

E. Group of States against Corruption (GRECO) 39

F. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) 39

G. Group of Experts on Action against Trafficking in Human Beings (GRETA) 39

PART IV: THE INTER-GOVERNMENTAL WORK 40

A. The new signatures and ratifications of the Treaties of the Council of Europe 40

B. Recommendations and Resolutions adopted by the Committee of Ministers 40

C. Other news of the Committee of Ministers 40

PART V: THE PARLIAMENTARY WORK 41

A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe (adopted by the Standing Committee, acting on behalf of the Assembly on 21 May 2010) 41

B. Other news of the Parliamentary Assembly of the Council of Europe 41

PART VI : THE WORK OF THE OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS 45

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) 46

Introduction

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

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

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

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

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

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

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

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Grand Chamber judgments**

Kononov v. Latvia (link to the judgment in French) (no. 36376/04) – 17 May 2010 – No violation of Article 7 – Domestic courts' prosecution and conviction of the applicant was based on international law in force at the time governing the acts he stood accused of, which constituted offences defined with sufficient accessibility and foreseeability by the laws and customs of war

The applicant was a Latvian national until 12 April 2000, when he was granted Russian nationality. In 1942 he was called up as a soldier in the Soviet Army and in 1943 he was dropped into Belarus territory (under German occupation at the time) near the Latvian border, where he joined a Soviet commando unit composed of members of the "Red Partisans". According to the facts as established by the competent Latvian courts, in May 1944 the applicant led a unit of Red Partisans wearing German uniforms on an expedition on the village of Mazie Bati, certain of whose inhabitants were suspected of having betrayed to the Germans another group of Red Partisans. The applicant's unit searched six farm buildings in the village where it found rifles and grenades supplied by the Germans. The Partisans shot the six heads of family concerned, wounded two women, set fire to two houses. In all, nine villagers were killed: six men and three women – one in the final stages of pregnancy. The villagers killed were unarmed; none attempted to escape or offered any form of resistance. According to the applicant, the victims of the attack were collaborators who had delivered a group of 12 Partisans into the hands of the Germans some three months earlier. The applicant said that his unit had been instructed to capture those responsible so that they could be brought to trial. He further claimed that he had not personally led the operation or entered the village.

In July 1998 an investigation file concerning the events of May 1944 was forwarded to the Latvian Principal Public Prosecutor. Subsequently, the applicant was charged with war crimes. In April 2004 the Supreme Court ultimately found the applicant guilty of war crimes. Relying mainly on the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War ("Geneva Convention (IV) 1949"), it convicted the applicant for the ill-treatment, wounding and killing of the villagers, finding in particular that burning a pregnant woman to death violated the special protection afforded to women during war. Furthermore, the applicant and his unit had violated Article 25 of the Hague Regulations 1907 which forbade attacks against undefended localities, such as the villagers' farm buildings. Under Article 23(b) of the same Regulations, the applicant was also convicted separately of treacherous wounding and killing, as he and his unit had worn German uniforms during the Mazie Bati operation. Noting that he was aged, infirm and harmless, the Latvian courts imposed an immediate custodial sentence of one year and eight months.

The applicant complained, in particular, that the acts of which he had been accused had not, at the time of their commission, constituted an offence under either domestic or international law. He maintained that, in 1944 as a young soldier in a combat situation behind enemy lines, he could not have foreseen that those acts could have constituted war crimes, or have anticipated that he would subsequently be prosecuted. He also argued that his conviction following the independence of Latvia in 1991 had been a political exercise by the Latvian State rather than any real wish to fulfil international obligations to prosecute war criminals.

In a judgment of 24 July 2008 the Court held, by four votes to three, that there had been a violation of Article 7 and awarded the applicant 30,000 euros (EUR) in respect of non-pecuniary damage.

Had there been a sufficiently clear legal basis in 1944 for the crimes of which the applicant had been convicted?

The Court first noted that Mr Kononov had been convicted under the 1961 Latvian Criminal Code, a provision introduced by the Supreme Council on 6 April 1993, which used the "relevant legal conventions" (such as the Geneva Convention (IV) 1949) as the basis for a precise definition of war crimes. The Latvian courts' conviction of the applicant had, therefore, been based on international rather than domestic law. By May 1944 the prevailing definition of a war crime had been an act contrary to the laws and customs of war; international law had defined the basic principles underlying those crimes. States had been permitted (if not required) to take steps to punish individuals for such crimes, including on the basis of command responsibility. Therefore, like the Latvian courts, the Court considered that the ill-treatment, wounding and killing of the villagers had constituted a war crime.

Furthermore, the domestic courts had reasonably relied on Article 23(b) of the Hague Regulations 1907 to separately convict the applicant of treacherous wounding and killing. At the relevant time wounding or killing had been considered treacherous if it had been carried out while unlawfully inducing the enemy to believe they had not been under threat of attack by, for example, making improper use of an enemy uniform, which the applicant and his unit indeed had done. Equally, there was a plausible legal basis for convicting the applicant of a separate war crime as regards the burning to death of the expectant mother, given the special protection for women during war established well before 1944 (ie Lieber Code 1863) in the laws and customs of war and confirmed immediately after the Second World War by numerous specific and special protections in the Geneva Conventions. Nor had there been evidence domestically, and it had not been argued before the Court, that it had been "imperatively demanded by the necessities of war" to burn down the farm buildings in Mazie Bati, the only exception under the Hague Regulations 1907 for the destruction of private property.

Had the crimes been statute-barred?

The Court noted that the prescription provisions in domestic law were not applicable: the applicant's prosecution required reference to international law both as regards the definition of such crimes and determination of any limitation period. The essential question was therefore whether, at any point prior to the applicant's prosecution, such action had become statute-barred by international law. The Court found that the charges had never been prescribed under international law either in 1944 or in developments in international law since, concluding that the prosecution of the applicant had not become statute-barred.

Could the applicant have foreseen that the relevant acts had constituted war crimes and that he would be prosecuted?

As to whether the qualification of the acts as war crimes, based as it was on international law only, could be considered to be sufficiently accessible and foreseeable to the applicant in 1944, the Court recalled that it had previously found that the individual criminal responsibility of a private soldier (a border guard) was defined with sufficient accessibility and foreseeability by a requirement to comply with international fundamental human rights instruments, which instruments did not, of themselves, give rise to individual criminal responsibility. While the 1926 Criminal Code did not contain a reference

to the international laws and customs of war, this was not decisive since international laws and customs of war were in 1944 sufficient, of themselves, to found individual criminal responsibility. The Court found that the laws and customs of war constituted particular and detailed regulations fixing the parameters of criminal conduct in a time of war, primarily addressed to armed forces and, especially, commanders. Given his position as a commanding military officer, the Court was of the view that the applicant could have been reasonably expected to take special care in assessing the risks that the operation in Mazie Bati had entailed. Even the most cursory reflection by the applicant, would have indicated that the acts, flagrantly unlawful ill-treatment and killing, had risked not only being counter to the laws and customs of war as understood at that time but also constituting war crimes for which, as commander, he could be held individually and criminally accountable. As to the applicant's submission that it had been politically unforeseeable that he would be prosecuted, the Court recalled its prior jurisprudence to the effect that it was legitimate and foreseeable for a successor State to bring criminal proceedings against persons who had committed crimes under a former regime. Successor courts could not be criticised for applying and interpreting the legal provisions in force at the relevant time during the former regime, in the light of the principles governing a State subject to the rule of law and having regard to the core principles (such as the right to life) on which the European Convention system is built. Those principles were found to be applicable to a change of regime of the nature which took place in Latvia following the Declarations of Independence of 1990 and 1991.

Accordingly, the Latvian courts' prosecution and conviction of the applicant, based on international law in force at the time of the acts he stood accused of, could not be considered unforeseeable. In conclusion, at the time when they were committed, the applicant's acts had constituted offences defined with sufficient accessibility and foreseeability by the laws and customs of war. The Court therefore concluded, by 14 votes to three, that there had been no violation of Article 7. Judge Rozakis expressed a concurring opinion, joined by Judges Tulkens, Spielmann and Jebens. Judge Costa expressed a dissenting opinion, joined by Judges Kalaydjieva and Poalelungi.

- **Right to life**

Perişan and Others v. Turkey (no. 12336/03) (Importance 2) – 20 May 2010 – Violation of Article 2 (substantive) in respect of eight prisoners who died and six who survived their life-threatening injuries – Violation of Article 3 in respect of six other prisoners – Disproportionate use of force by police officers and gendarmes to quell disturbances in a prison – No violation of Article 3 in respect of the 34 applicants related to the prisoners who died – Lack of a sufficient number of special factors giving their suffering a dimension distinct from the emotional distress inevitably caused to relatives of a victim of a serious human rights violation – Violation of Articles 2 and 3 (procedural) in respect of all the applicants – Excessive length of criminal proceedings

The applicants are 46 Turkish nationals. 34 of them were acting both in their own name and on behalf of eight of their relatives, prisoners who died during a security forces operation at Diyarbakır Prison in Turkey on 24 September 1996. The remaining 12 applicants, prisoners who were injured during the events, were acting in their own name.

The applicants and the Government presented differing accounts of the events. According to the applicants, following scuffles between two prisoners and the chief warder, police officers and gendarmes armed with truncheons and batons had beaten the offending prisoners and their fellow inmates, in some cases to death. According to the Government, a riot had taken place that morning and prisoners armed with a variety of metal objects had attacked the warders. The Government maintained that around 50 officers equipped with truncheons, helmets and riot shields had been sent to confront the prisoners while the remaining officers secured the premises. The operation left 33 prisoners injured and 27 gendarmes with minor injuries. Eight prisoners died shortly afterwards, having sustained serious injuries including fractured skulls. The forensic medical institute and the prison doctor examined the other injured prisoners on the day of the events and pronounced the lives of six of them to be in danger in view of the seriousness of their injuries; however, the prisoners in question survived. Various investigations were opened into the events. The Diyarbakır public prosecutor's office commenced an investigation and on 26 September 1996, heard evidence from warders and prisoners who had been present. In October 1996 a human rights sub-committee of the National Assembly also launched an inquiry and took evidence from, among others, the public prosecutor, the prosecutor attached to the prison, the prison governor and his deputies and the chief warder (all of whom had been removed from office in the meantime), and also from doctors and prisoners. In November 1996 criminal proceedings were instituted against 24 prisoners for rioting and assaulting persons exercising public authority. However, the offences of which they were accused were covered by an amnesty law and the proceedings were suspended. Meanwhile, in December 1996, criminal proceedings were started against various members of the prison staff and against 65

gendarmes and police officers. In February 2006 the Assize Court acquitted three of the accused, declared the prosecution of seven others time-barred and found 62 gendarmes and police officers guilty of causing death by the use of excessive and unnecessary force. It sentenced each of them to 18 years' imprisonment, reduced to five years on account of extenuating circumstances and good conduct, and to a three-year ban on holding public office. The case was referred to the Court of Cassation, which quashed the judgment in May 2007 on account of a number of irregularities. The case is currently pending again before the Assize Court.

The applicants complained of the killing of their relatives and the ill-treatment inflicted by the security forces during the operation in question. The relatives of those who died also considered that their own suffering as a result of the appalling circumstances of the deaths amounted to a separate violation of Article 3. All the applicants further complained of shortcomings in the preliminary investigation and of the dilatory attitude of the Assize Court, which in their view were in breach of the procedural obligations under Articles 2 and 3 and of Article 6 § 1 and Article 1. The applicants further complained that they had been subjected to discriminatory treatment on account of their ethnic origin and their political views. Lastly, the relatives of the prisoners who died claimed to be the victims of a violation of Article 8.

Articles 2 and 3 (substantive)

The Court noted that it was not in dispute that on 27 September 1996 clashes had taken place in Diyarbakır Prison between approximately 30 prisoners and the security forces. It therefore considered that the authorities' intervention could be regarded as being aimed at quelling a "riot or insurrection" within the meaning of Article 2. At first glance there was nothing to indicate that the security forces, who had used truncheons among other implements, had employed methods prohibited by Turkish law in the course of the operation. Although the security forces had been ordered not to strike prisoners on the head and had received the relevant training, a fact stressed by the authorities, the Court could not overlook the seriousness of the outcome of the operation. Eight individuals who had been entirely under the authority and responsibility of the State had died from multiple injuries and fractures, in particular of the skull and ribs, inflicted by truncheons and other blunt instruments. The Government's contention that the force used had been in response to an attack by prisoners armed with dangerous implements was undermined by the fact that the injuries sustained by the gendarmes had been localised and minor. There was no verifiable evidence in the file to indicate that the deceased and the applicants, or at least some of them, had played an active part in the "riot" or had attacked the police officers and soldiers. In the Court's view the present case demonstrated above all the absence of a system of adequate and effective safeguards against arbitrariness and abuse of force. It further considered that the force used against the prisoners, which had led to the deaths of eight of them, had not been "absolutely necessary" within the meaning of Article 2. There had therefore been a breach of that Article in respect of the prisoners who died. As to the six applicants who had sustained life-threatening injuries, the Court considered – in view of the prognosis and the aforementioned considerations regarding the use of force in this case – that they too had been the victims of violence placing their lives in danger, notwithstanding the fact that they had ultimately survived. Accordingly, there had been a violation of Article 2 in respect of these applicants also.

With regard to the six other applicants who had been injured, the Court examined the issue from the standpoint of Article 3, as their lives had not been in danger. It reiterated that where an individual was deprived of his or her liberty, the use of physical force not rendered absolutely necessary by his or her conduct amounted in principle to a breach of the prohibition of inhuman or degrading treatment, which was absolute even in the most difficult circumstances. It was not in dispute that the six applicants concerned had been seriously injured while they had been under the authority and responsibility of the State. It was equally clear that they had suffered physical pain and a deep sense of anxiety in the face of indiscriminate lethal violence of such intensity that they could not have been sure whether they would survive. The treatment to which they had been subjected was therefore sufficiently severe to fall within the scope of Article 3. As the Government had provided no justification for the suffering thus inflicted on the six applicants concerned, or proved that their allegations were false, the Court could not but find a violation of Article 3 in this regard. Lastly, with regard to the 34 applicants related to the prisoners who died, the Court could not discern the existence of a sufficient number of special factors giving their suffering a dimension and character distinct from the emotional distress inevitably caused to relatives of a victim of a serious human rights violation. There were therefore no grounds for finding a separate violation of Article 3.

Articles 2 and 3 (procedural)

The Court accepted that procedural steps had been taken by the authorities in charge of the preliminary investigation and by the trial court. However, in cases of this type, the State was bound by requirements of promptness and reasonable expedition. At the present time (over 13 years and seven months after the events), the criminal proceedings against the officers concerned remained pending before the first-instance court without the slightest tangible and reliable sign of progress capable of

leading to the establishment of responsibility. That was sufficient for the Court to conclude that the proceedings in question could not be said to satisfy the requirements of Articles 2 and 3, which had been breached (in their procedural aspect) in respect of all the applicants.

Anuşca v. Moldova (no. 24034/07) (Importance 3) – 18 May 2010 – Violation of Article 2 (procedural) – Lack of an effective investigation into a soldier's death during his military service

The applicant's son was performing his mandatory military service in October 2004 when he was found dead, lying under a tree with a broken cord around his neck, the other end of which was tied to a branch. Shortly before, he had been reprimanded by one of his superiors and had left a short written note with a farewell message with another soldier. A few hours later, the military prosecutor started an investigation. A forensic examination of the body a few weeks later concluded that the cause of death had been asphyxia caused by strangulation. The military prosecutor closed the investigation in December 2004, finding that the death had been caused by suicide, and that no crime had been committed. In April 2005, the deputy prosecutor general annulled this decision on the ground that the death of the applicant's son had not been sufficiently investigated and specified several steps to be taken, including a handwriting analysis and further interviews with soldiers and officers of the regiment. After those steps had been taken, the military prosecutor closed the investigation for a second time, concluding again that no crime had been committed. In November 2006, the applicant applied to the municipal court to annul the closure of the investigation, complaining in particular that she had not seen the investigation file and that her request that certain persons be interviewed had been rejected. The municipal court ruled that the applicant's rights under criminal procedural law had been seriously violated. It nevertheless rejected the applicant's complaint on procedural grounds. Following the intervention by a Member of Parliament in support of the applicant, in May 2007 the deputy prosecutor general again annulled the decision to close the file, ruling that the applicant had to be recognised as the injured party and had to be granted certain procedural rights associated with this status. He further directed that additional information be obtained about the social relations of the applicant's son and the reasons for his absences from the military base. The military prosecutor closed the investigation for the third time in August 2007, a decision of which the applicant was informed a few weeks later. The deputy prosecutor general cancelled that decision in January 2008, noting that the photos of the body had not been added to the investigation file. The prosecutor general wrote a letter to the military prosecutor strongly criticising the way the investigation had been handled, in particular that it had been incomplete, that there had been unjustified delays and that steps had not been taken as ordered. The investigation was closed for the last time in May 2008, concluding again that no crime had been committed.

The applicant complained that there had not been an effective investigation into her son's death.

The Court reiterated that in a case where the suicide of a soldier was presumed, the authorities responsible for him had to act with particular diligence in investigating the circumstances in order to exclude the possibility of a criminal act against the deceased. The Court noted that the investigation into the death of the applicant's son had begun promptly. It found that the shortcomings in the initial actions of the investigator, which the applicant criticised, had not been such as to compromise the investigation. The Court noted that additional interviews with soldiers of the regiment had brought to light certain difficulties the applicant's son was having with military life; the interviews had also provided an explanation for the fact that he had a significant amount of alcohol in his system at the time of his death. The Court found that there were no elements before it that would cast doubt on the conclusion that the applicant's son had committed suicide by hanging. However, the Court was struck by the fact that the office of the prosecutor general had considered it necessary to intervene three times, ordering the military prosecutor on each occasion to re-open the procedure and conduct further enquiries into significant issues. The Court accepted the Moldovan Government's argument that the actions of the office of the prosecutor general ultimately cured the deficiencies in the investigation, but they could not make up for the delay. The total time of three years and seven months until the investigation was finally concluded could not be justified by its complexity or any objective difficulties. Moreover, the authorities had not sufficiently involved the applicant in the investigation, at least during the first two years. In the circumstances the applicant had had a strong and legitimate interest in the conduct of the investigation, which would have ensured public scrutiny and accountability. This would have been achieved by granting her the status of the injured party under national criminal law. The Court emphasised that Article 2 in its procedural aspect required more than merely informing close relatives of the progress of the investigation. It therefore rejected the Moldovan Government's arguments that nothing had prevented the applicant from acquainting herself with the investigation file and that only where an investigation had concluded that a crime had been committed should the relatives be recognised as the successors to the victim and unanimously concluded that there had been a violation of Article 2 in its procedural aspect.

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

Visloguzov v. Ukraine (no. 32362/02) (Importance 2) – 20 May 2010 – Two violations of Article 3 (substantive) – Conditions of detention in the Simferopol SIZO – Lack of adequate medical care – Violation of Article 13 – Lack of an effective remedy – Violation of Article 8 – Interference with the applicant's right to correspondence with the Court – Violation of Article 34 – Infringement of the applicant's right to individual application

Having served a prison sentence of more than four years and nine months, the applicant complained of the poor conditions of his detention and the lack of effective remedies in this respect. The applicant complained that on several occasions during his post-conviction detention he had been administered a psychotropic agent by force; that in Colony no. 90 there had been overcrowding, lack of adequate nutrition, and inadequate sanitary and hygienic conditions; that the physical conditions of his detention in the Simferopol SIZO had been inadequate on account of overcrowding and lack of ventilation; that during the whole period of his post-conviction detention he had been denied appropriate medial assistance. He further complained of the alleged interference with his correspondence and of the alleged seizure and retention by prison officials of the documents necessary for lodging an application with the Court.

The Court noted that the Government failed to adduce any evidence in support of their estimate of the living space per detainee in the Simferopol SIZO despite the fact that the relevant information and evidence was at their disposal. In the light of the Court's established case-law on this issue and the relevant standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (see *Kalashnikov* and *Melnik*), even the figures of the Government suggest that most of the time the applicant was held in overcrowded cells. The Court further noted that the Government failed to substantiate in any manner their submissions as to sufficiency of the number of bunks and the adequacy of the ventilation system. In these circumstances the Court is inclined to give weight to the applicant's submissions on this matter. The Court therefore found that the applicant's detention in overcrowded conditions, which lasted for three months and twenty-two days, was further aggravated by inadequate ventilation and the lack of bunks which meant that he and the other detainees had to take it in turns to sleep. These findings are further corroborated by the general conclusions of the Parliamentary Commissioner for Human Rights concerning the physical conditions of detention in the penitentiary institutions in the Autonomous Republic of Crimea (see *Koktysh*). The Court concluded that the physical conditions of detention of the applicant in the Simferopol SIZO amounted to degrading treatment in breach of Article 3 of the Convention.

As regards treatment for tuberculosis, the Court noted that on many occasions the applicant was medically examined and X-rayed, and that in the course of those examinations the doctors reconfirmed the applicant's diagnosis. It appeared, however, that following those examinations, the applicant was not offered any further substantial treatment. It was only between September and November 2004 that he was treated specifically for tuberculosis in a prison hospital. As to the treatment for weight loss and chronic hepatitis, the Court noted that the applicant was transferred to a prison hospital on account of these illnesses twice. Still, having regard to the seriousness of the applicant's illnesses and also to the domestic law requirement providing that the prisoners suffering from tuberculosis should be held in specialised prison hospitals, the Court considered that the measures taken by the domestic authorities had not been sufficient. In the light of the above considerations, the Court held that the medical care dispensed to the applicant during his post-conviction detention was inadequate and amounted to a violation of Article 3 of the Convention.

The Court further held that the seizure and retention of the Court's letter constituted interference with the applicant's right to respect for his correspondence guaranteed by Article 8 of the Convention. The Court considered that the authorities overstepped their margin of appreciation in the present case, and that the interference was not proportionate and necessary in a democratic society. It held that Article 8 of the Convention has been violated. The Court considered that the applicant had no effective remedy in respect of his allegations of inadequate physical conditions of detention in the Simferopol SIZO and inadequate medical assistance while in post-conviction detention. Accordingly, there has been a violation of Article 13 of the Convention. Finally the Court noted that the prison officials seized the Court's letter of 4 September 2002, which contained an application form and other documents necessary for the applicant to duly prepare his application to the Court. Because of that seizure the applicant had to request a new set of documents and it was only after he received it that he successfully lodged the application with the Court. The delay in the lodging of the application was caused by the prison authorities and amounted to about one year. The Court considered that such conduct on the part of State authorities is incompatible with the safeguards of Article 34 of the Convention. In these circumstances the Court concluded that Ukraine has failed to comply with its obligations under Article 34 of the Convention.

Kositsyn v. Russia (no. 69535/01) (Importance 3) – 12 May 2010 – Violation of Article 3 – Conditions of detention in facility no. IZ-39/1 in Kaliningrad

The applicant is currently serving a 14-year prison sentence in Kaliningrad for murder. He complained about the conditions of his detention on remand during the criminal proceedings against him.

The Court noted that it has frequently found a violation of Article 3 of the Convention on account of a lack of personal space afforded to detainees. More specifically, the Court reiterated that it recently found a violation of Article 3 on account of a criminal defendant's nine months' detention in overcrowded conditions in the same detention facility (see *Mayzit v. Russia*). The Court reiterated that it is incumbent on the respondent Government to organise its penitentiary system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties. As regards subsequent developments (refurbishment of the cells, opening of a new remand prison, etc.), however positive they might be, they are irrelevant for the assessment of the applicant's complaints raised above. The Court noted that for eleven months the applicant had to live, sleep and use the toilet in the same cell as many other inmates. That fact was in itself sufficient to cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and to arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him. The Court found that there had been a violation of Article 3 of the Convention, because the applicant was subjected to inhuman and degrading treatment on account of the conditions of his detention in facility no. IZ-39/1 in Kaliningrad.

Vladimir Kozlov v. Russia (no. 21503/04) (Importance 3) – 20 May 2010 – Violation of Article 3 – Conditions of detention in remand prison no. IZ-77/3 in Moscow

Convicted of aiding and abetting a murder and planning another murder, the applicant complained that the conditions of his detention on remand had been inhuman and degrading.

The Court accepted the applicant's statement that the cells in the remand prison where he was detained pending trial were constantly overcrowded. The space they afforded did not exceed 1.42 sq. m per person. On certain occasions it was as low as 0.7 sq. m. The number of sleeping places was insufficient and the inmates had to take turns to sleep. The applicant spent approximately two years and two months in such conditions. The Court reiterated that irrespective of the reasons for the overcrowding, it is incumbent on the respondent Government to organise their custodial system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties. The Court has frequently found a violation of Article 3 of the Convention on account of the lack of personal space afforded to detainees. Having regard to its case-law on the subject and the materials in its possession, the Court noted that the Government had not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. There had therefore been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in remand prison no. IZ-77/3 in Moscow between 17 August 2001 and October 2003, which the Court considered were inhuman and degrading within the meaning of this provision.

Lopatin and Medvedskiy v. Ukraine (nos. 2278/03 and 6222/03) (Importance 3) – 20 May 2010 Violations of Article 3 (substantive and procedural) – Ill-treatment by police officers – Lack of an effective investigation – Violation of Article 5 § 1 – Lack of an effective investigation into the applicants' unrecorded detention – Violation of Article 6 § 1 – Excessive length of criminal proceedings

Convicted of robbery (first applicant) and robbery and murder (second applicant), both applicants alleged that they had been ill-treated by the police during three days of detention at a police station following their arrest in 1999; the first applicant also complained of the alleged failure to carry out an effective investigation in this respect. Both applicants further complained that their detention had been unlawful as it had not been recorded, and about the length of the proceedings, which lasted more than three years.

The Court reiterated that a State was responsible for the welfare of persons in detention and that the authorities had a duty to protect such persons. The Court considered that the failure to find and prosecute persons guilty of a crime of violence against a detainee, as in the instant case, cannot absolve the State of its responsibility under the Convention. In the light of the above, and in the absence of any plausible explanation of the Government as to the origin of the applicants' injuries, it must be considered that the applicants sustained the injuries as a result of inhuman and degrading treatment for which the Government must bear Convention responsibility. The Court concluded that there has been a breach of Article 3 of the Convention in this regard.

The Court further observed that the absence of an arrest record must in itself be considered a serious failing, as it has been the Court's constant view that unrecorded detention of an individual is a complete negation of the fundamentally important guarantees contained in Article 5 of the Convention and discloses a grave violation of that provision. The absence of a record of such matters as the date, time and location of detention, the name of the detainee, the reasons for the detention and the name of the person effecting it must be seen as incompatible with the requirement of lawfulness and with the very purpose of Article 5 of the Convention. In the instant case, it was no longer disputed that the applicants remained in custody for three days without any records and the unlawfulness of their detention had been acknowledged by the domestic authorities. These authorities, however, failed to investigate this violation with sufficient efficiency. The Court therefore considered that there had been a violation of Article 5 § 1 of the Convention.

The Court noted further that although the overall length of the proceedings could be considered justified given the complexity of the case, there was a period of inactivity of more than a year between September 2000 and December 2001, while the case was pending before the first-instance court. The Court noted that the Government failed to substantiate with the documentary evidence their submissions that the period in question had been attributable to the applicant and his lawyer, and no other plausible explanations could be found in the case-file material. In the Court's opinion, such a long period of inactivity in circumstances where special diligence was required because the applicants had been detained is sufficient to find that there has been a violation of Article 6 § 1 of the Convention.

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

Khaydarov v. Russia (no. 21055/09) (Importance 2) – 20 May 2010 – Violation of Article 3 if extradition order were to be enforced – Extraditing the applicant to Tajikistan would be in breach of Article 3 – Violation of Article 5 §§ 1 and 4 – Unlawful detention – Lack of an effective remedy to challenge the lawfulness of the detention pending extradition

The applicant is an ethnic Uzbek and a Tajikistani national. He is currently detained in a remand prison in Moscow with a view to his extradition to Tajikistan. According to the applicant, he fled to Uzbekistan after his village, largely populated by ethnic Uzbeks, was attacked during the 1992 civil war in Tajikistan. In 1998 the applicant moved to Russia. Criminal proceedings were brought against him by the Tajik Prosecutor General's Office in January 2006 in relation to his alleged involvement with an illegal armed group in 1997. In April 2006, the applicant was put on an international wanted list. In July 2006, the investigation was suspended because his whereabouts were unknown. In April 2008, the applicant was arrested in Moscow as a person wanted by the Tajik authorities, where he learned that there had been criminal proceedings brought against him. He was first detained by the police and, two days later, a court placed him in custody on the basis of the Russian Code of Criminal Procedure. In June 2008, the court again ordered his detention for an unspecified period of time, and in May 2009 the Supreme Court ordered his continued detention. Starting from October 2008, the applicant's lawyer applied several times for his release which was systematically refused by the domestic courts. The applicant's lawyer also complained unsuccessfully of the prosecutor's failure to request, as required by domestic law, an extension of the applicant's detention. In November 2008, the Russian Prosecutor General's Office ordered the applicant's extradition upon a request by the Tajik Prosecutor General made in April the same year. The applicant challenged the extradition order in court, alleging that he was being persecuted in Tajikistan for political reasons related to the civil war. The courts heard staff from the Russian Ombudsman's office who stated that torture and ill-treatment were frequently practised in Tajikistan. The applicant's appeals were ultimately unsuccessful, the domestic courts having found no evidence that he would be persecuted for political reasons and having relied in particular on assurances given by the Tajik Prosecutor General that the applicant will not be ill-treated and on the fact that Tajikistan had ratified most major international human-rights treaties. In June 2008, the applicant applied for political asylum which was refused by the immigration authorities in October the same year. He appealed against the refusal before the domestic courts, however, his appeals were dismissed. In May 2009, the United Nations High Commissioner for Refugees (UNHCR) declared the applicant a person requiring international protection, yet in September that year the immigration authorities rejected his application for temporary asylum. In November 2009, the Russian Office of the UNHCR submitted to the immigration authorities a report supporting the applicant's request for temporary asylum stating that he ran a real risk of being ill-treated if extradited to Tajikistan. The applicant complained of a serious risk of being ill-treated if extradited to Tajikistan, as well of various breaches of his right not to be arbitrarily detained.

Ill-treatment (Article 3)

The Court examined first the general political climate in Tajikistan. It noted that information provided by many objective sources, such as the United Nations Committee Against Torture, Human Rights Watch and the United States Department of State, undoubtedly illustrated that the over-all human

rights situation in Tajikistan gave rise to serious concerns. In particular, detainees were often kept in unrecorded detention without access to a lawyer or medical assistance and interrogation methods were at odds with international legal standards. Torture was wide-spread and State officials practising it were granted impunity. The fact that Tajikistan had ratified major international human rights documents was not in itself enough to exclude the risk of the applicant being ill-treated there. The Court also noted that cases of discrimination against ethnic Uzbeks in Tajikistan had been reported. The applicant was wanted by the Tajik authorities in connection to events related to the civil war; the US Department of State had indicated that several hundred political prisoners who had fought in that war were held in Tajikistan. The Russian office of the UNHCR had concluded that the criminal charges against the applicant had been disguised persecution by the Tajik authorities for his political views since they had associated him with anti-government activities which had taken place in the August 1997. The Tajik Prosecutor General's letter to the Russian authorities could not have been regarded as diplomatic assurances guaranteeing that the applicant would not be tortured as it had been clear from that letter that no such assurances had been given. In any event, diplomatic assurances were not in themselves sufficient to guarantee that ill-treatment would not take place. That conclusion was supported by numerous reliable sources reporting that practices contrary to the Convention were either tolerated or used by the Tajik authorities. The Court finally noted that, when examining the applicant's appeals against the extradition order, the Russian courts had not addressed duly his complaint that he was persecuted on political grounds in Tajikistan. The courts had failed to study carefully the documents produced in the applicant's extradition case and had made no attempt to examine the possibility that the criminal charges brought against him might have been a retaliation against a former political opponent. The Court held therefore that extraditing the applicant to Tajikistan would violate Article 3.

Detention (Article 5 § 1)

The Court noted that the request for the applicant's extradition had been accompanied by an arrest warrant issued by a Tajik investigator rather than by a decision of a Tajik court. His detention was authorised twice, in April and June 2008, by a Russian court. However, no further court decision to extend his detention had been made until May 2009, when the Supreme Court had authorised the applicant's continued detention. Therefore, the domestic courts had taken ten months and twenty-five days to reconsider the applicant's detention pending extradition. Consequently, the Court concluded that, after 17 October 2008 (six months after his initial detention), the applicant had been detained in breach of the relevant domestic law which allowed a maximum of six months detention in the absence of a court decision extending it. The Court held that there had been a violation of Article 5 § 1.

Detention (Article 5 § 4)

The Court noted that it was not disputed between the parties that the applicant had spent more than two years in detention pending extradition. It further recalled that it had found earlier on numerous occasions that the Code of Criminal procedure did not allow those detained with a view to extradition to bring proceedings challenging the lawfulness of their detention if the prosecutor had not asked before that their detention be extended. The applicant's lawyer had attempted unsuccessfully to complain of the prosecutor's failure to request such an extension. In those circumstances, the Court was not satisfied that the domestic law provisions secured the applicant's right to bring proceedings before a court for the examination of the lawfulness of his detention. Consequently, the Court found that, throughout his detention pending extradition, the applicant could not have had reviewed the lawfulness of his detention, in violation of Article 5 § 4.

Khodzhayev v. Russia (no. 52466/08) (Importance 2) – 20 May 2010 – Violation of Article 3 if extradition order were to be enforced – Extraditing the applicant to Tajikistan would be in breach of Article 3 – Violation of Article 5 §§ 1 and 4 – Unlawful detention – Lack of an effective remedy to challenge the lawfulness of the detention pending extradition

The applicant is a Tajikistani national currently detained in Moscow with a view to his extradition to Tajikistan. Criminal proceedings were brought against him by the Ministry of Security of Tajikistan in June 2000 on suspicion of membership in an illegal extremist-religious party. An arrest warrant was drawn in his name; however the investigation was suspended because the applicant's whereabouts were unknown. He fled Tajikistan for Moscow in 2001. According to the Russian authorities, in February 2002, the Tajik Prosecutor General asked that he be extradited to Tajikistan following which the Russian police started searching for him. In November 2007, the applicant was arrested in Moscow and questioned on the same day. He complained that during the questioning he was not informed of the reasons for his arrest. The Russian Government maintained that the applicant had declined an interpreter and had signed a statement acknowledging that he was aware that a criminal case was pending against him in Tajikistan. The domestic court placed the applicant in custody pending his extradition, ordered in June 2008 by the Russian prosecuting authorities upon a request

by the Tajik Prosecutor General made in December 2007. In December 2007, the courts ordered anew his detention. He challenged the extradition order in court, unsuccessfully. In January 2008, the applicant applied for political asylum which was refused by the immigration authorities in May the same year. He appealed against the refusal in court. While the applicant submitted that, to his knowledge, those proceedings were still pending; the Government indicated that they ended with a decision dismissing his appeal against the decision not to grant him an asylum.

The applicant complained of a serious risk of him being ill-treated if extradited to Tajikistan, as well of various breaches of his right not to be arbitrarily detained.

Ill-treatment (Article 3)

The Court examined first the general political climate in Tajikistan. It noted that information provided by many objective sources, such as the United Nations Committee Against Torture, Amnesty International, Human Rights Watch and the United States Department of State, undoubtedly illustrated that the over-all human rights situation in Tajikistan gave rise to serious concerns. In particular, detainees were often kept in unrecorded detention without access to a lawyer or medical assistance and interrogation methods were at odds with international legal standards. The fact that Tajikistan had ratified major international human rights documents was not in itself enough to exclude the risk of the applicant being ill-treated there.

The Court then noted that the applicant was wanted by the Tajik authorities as they had accused him of being a member in a banned extremist-religious organisation. Relying on the reports of various independent international sources, the Court found that there were serious reasons to believe that members or supporters of that religious organisation were persecuted in Tajikistan. The diplomatic assurances that the applicant would not be ill-treated, provided by the Tajik Government, had been rather vague and, in any event, were not in themselves sufficient to guarantee that ill-treatment would not take place. That conclusion was supported by numerous reliable sources reporting that practices contrary to the Convention were either tolerated or used by the Tajik authorities. Consequently, there was a high probability that the applicant would risk being ill-treated if extradited to Tajikistan.

The Court finally noted that, when examining the applicant's appeals against the extradition order, the Russian courts had not addressed duly his complaint that he was persecuted on political grounds in Tajikistan, despite him having raised that already five months earlier before the Russian immigration authorities. The Court held therefore that extraditing the applicant to Tajikistan would violate Article 3.

Detention (Article 5 § 4)

The Court noted that on 28 December 2007 the domestic courts had ordered the applicant detention in custody a second time, instead of prolonging his initial detention of 30 November 2007 which had been still valid at the time. The domestic law did not envisage a possibility to appeal against a second consecutive decision to place a person in custody. In addition, the applicant had spent more than ten months in detention pending extradition. The Government had not referred to specific legal provisions which the applicant could have used in order to ask for review of the lawfulness of his detention. The Court recalled that it had found earlier on numerous occasions that the Code of Criminal procedure did not allow those detained with a view to extradition to bring proceedings challenging the lawfulness of their detention if the prosecutor had not asked before that their detention be extended. Further, as the applicant was not a party in criminal proceedings before the Russian courts, he could not challenge his detention using the relevant domestic law provisions. Consequently, the Court found that, throughout his detention pending extradition, the applicant could not have brought proceedings for judicial review of the lawfulness of his detention, in violation of Article 5 § 4.

Detention (Article 5 § 1)

The Court noted that, following the Tajik authorities request for the applicant's extradition, the applicant had been detained by a Russian court twice, on 30 November 2007 and 28 December respectively. However, his detention had not been extended by a court after the 28 December 2007. Therefore, as from 29 May 2008 (six months after his initial detention), the applicant had been detained in breach of the relevant domestic law which allowed a maximum of six months detention in the absence of a court decision extending it. The Court therefore held that there had been a violation of Article 5 § 1.

- **Right to a fair trial / Excessive length of proceedings**

Antoine Versini v. France (no. 11898/05) (Importance 2) – 11 May 2010 – No violation of Article 6 § 1 – Adequate respect of the principle of equality of arms during criminal proceedings of a restaurateur accused of tax offences

In 1995 tax authorities issued the company running a prestigious hotel and restaurant of which the applicant was the manager with a supplementary corporation-tax and VAT assessment (together with interest for late payment and penalties). In May 1999 the tax authorities granted full relief from the corporation tax due and the related penalties. In July 1999 the court appointed an expert to produce a report on whether or not the bases used by the tax authorities in the assessment of VAT had been excessive. The report did not find any serious irregularities in the company's accounts, but nevertheless noted some areas of uncertainty. In December 2004 the court upheld the supplementary VAT assessment for 1991 in full and for 1992 in part. However, it exempted the company from payment of the VAT and related penalties for 1992 and 1993. The judgment became final in the absence of an appeal, and the tax authorities granted Mr Versini and his wife full relief from the supplementary income-tax demands.

Alongside the administrative proceedings concerning the company, criminal proceedings were instituted against the applicant as the manager after a criminal complaint had been lodged against him in May 1997 by the director of the Alpes-Maritimes Tax Office. In February 2000 the prosecuting authorities served a summons on him to appear directly before the Grasse Criminal Court on charges of fraudulently evading the assessment and payment of corporation tax and VAT, and omitting to make entries or to cause entries to be made in accounting records. The tax authorities applied to join the proceedings as a civil party. In April 2000 the court found the applicant guilty as charged, gave him a six-month suspended prison sentence and ordered him to arrange for the publication and public display of the judgment; he was also held jointly and severally liable, together with the company, for payment of the sums owed to the State. The court noted that the institution of proceedings in the Administrative Court had no bearing on the assessment of the applicant's guilt by the criminal courts. The applicant subsequently appealed, assisted by a lawyer, seeking an adjournment until the expert appointed in the administrative proceedings submitted his report. In September 2003 the Aix-en-Provence Court of Appeal acquitted the applicant of evading corporation tax, after noting that the tax authorities had granted full relief from that tax. It upheld the remainder of his conviction, although it reduced the suspended prison sentence to four months. In October 2004 the Court of Cassation dismissed an appeal on points of law by the applicant.

The applicant alleged that his criminal trial had been unfair in that the principle of equality of arms had been breached. He complained that he had been summoned to appear directly before the Criminal Court without a prior investigation, and submitted that he had been convicted solely on the basis of the evidence produced by the tax authorities. He further argued that he had been put at a clear disadvantage in relation to the authorities because the Court of Appeal had given its ruling without waiting for the expert's report to be submitted to the Administrative Court.

Concerning the applicant's complaint that he had been summoned to appear directly before the Criminal Court, the Court noted that the applicant had been summoned to appear in court two years and nine months after the director of the Tax Office had lodged his complaint. He had therefore had the time to prepare his defence. Concerning the applicant's complaint that his criminal conviction had been based solely on the evidence produced by the tax authorities, the Court reiterated that, in order to convict a person of tax evasion, the criminal courts – which had exclusive jurisdiction in assessing the facts of the alleged offence – had, firstly, to determine whether the tax authorities' findings were correct and, secondly, to ensure that the evidence was examined in adversarial proceedings. Those principles had been observed in the present case. In addition, the applicant had had the option of requesting additional investigative measures or adducing any evidence that could contradict the position of the tax authorities. There had been nothing to prevent him from producing in the Court of Appeal (which had given judgment in September 2003) the evidence he had already submitted to the expert (in 2002) in the administrative proceedings, which had led the expert to conclude that, despite some areas of uncertainty, there had been no serious irregularities in the company's accounts. The applicant had therefore had the opportunity to submit arguments on the charges against him at two levels of jurisdiction, subject to final review by the Court of Cassation. Lastly, the Court examined the complaint that the applicant had been put at a disadvantage because the Court of Appeal had given its ruling without waiting for the expert's report to be submitted to the Administrative Court. It noted, firstly, that administrative and criminal proceedings were independent of each other and had different aims and purposes: the administrative courts had jurisdiction in tax matters (giving decisions on the tax base and the scope of taxation), whereas the criminal courts tried cases of tax evasion (determining whether the defendant had evaded or attempted to evade tax by reprehensible subterfuges). Moreover, the administrative courts' decisions were not binding on the criminal courts. The Court further held that, even if the Court of Appeal had adjourned the case until the report was submitted, there was no indication that it would have reached a different conclusion, bearing in mind the expert's findings and the areas of uncertainty noted by him. Having regard to all the above factors, the Court considered that the principle of equality of arms had been observed and that there had therefore been no violation of Article 6 § 1.

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

Kennedy v. the United Kingdom (no. 26839/05) (Importance 1) – 18 May 2010 – No violation of Article 8 – No evidence of any significant shortcomings in the application and operation of the surveillance regime allegedly imposed on the applicant – No violation of Article 6 § 1 – The restrictions on the applicant's rights in the context of the proceedings before the IPT were both necessary and proportionate – No violation of Article 13 – Existence of an effective remedy in regard to the alleged interception of the applicant's communications

When arrested for drunkenness in 1990 the applicant spent the night in detention with an inmate who was found dead the next day. He was subsequently found guilty of the man's murder and sentenced to life imprisonment. His case was controversial in the United Kingdom on account of missing and conflicting evidence. Released from prison in 1996, the applicant started a removal business. He alleged that his business mail, telephone and email communications were being intercepted because of his high profile case and his subsequent involvement in campaigning against miscarriages of justice. The applicant complained to the Investigatory Powers Tribunal ("IPT") that his communications were being intercepted in "challengeable circumstances" amounting to a violation of his private life. The applicant sought the prohibition of any communication interception by the intelligence agencies and the "destruction of any product of such interception". He also requested specific directions to ensure the fairness of the proceedings before the IPT, including an oral hearing in public, and a mutual inspection of witness statements and evidence between the parties. The IPT proceeded to examine the applicant's specific complaints in private, and in 2005 ruled that no determination had been made in his favour in respect of his complaints. This meant either that there had been no interception or that any interception which took place was lawful.

The applicant complained about the alleged interception of his communications. He further complained that the hearing before the IPT had not been fair, and that as a result he had been denied an effective remedy.

Article 8

The Court reiterated that, based on the principle of effective protection by the Convention's system, an individual might – under certain conditions to be determined in each case – claim to be the victim of a violation as a result of the mere existence of secret measures, even if they were not applied to him. This departure from the Court's general approach was to ensure that such measures, although secret, could be challenged and judicially supervised. In the applicant's case, the Court considered that it could not be excluded that secret surveillance measures were applied to him or that he was, at the material time, potentially at risk of being subjected to such measures. Accordingly, the Court concluded that he could complain of an interference with his Article 8 rights. The Court considered it clear that the interference in question pursued the legitimate aims of protecting national security and the economic well-being of the country and preventing crime. In addition, it was carried out on the basis of the Regulation of Investigatory Powers Act 2000 ("RIPA"), supplemented by the Interception of Communications Code of Practice ("the Code"). The RIPA was available on the Internet, and hence accessible. It defined with sufficient precision the cases in which communications could be intercepted. While the offences allowing interception were not set out by name, the Court noted that States were not compelled to exhaustively list national security offences as those were by nature difficult to define in advance. Finally, as only communications within the United Kingdom were concerned in the present case – unlike in *Liberty and Others v. the United Kingdom* – the domestic law described more fully the categories of persons who could be subject to an interception of their communications. As regards the processing, communication and destruction of data, the Court noted that the overall duration of interception measures had to be left to the discretion of the domestic authorities, as long as adequate safeguards were put in place. In the present case the renewal or cancellation of interception warrants were under the systematic supervision of the Secretary of State. In addition, contrary to the practice for communications with other countries, the domestic law provided that warrants for internal communications related to one person or one set of premises only, thereby limiting the scope of the authorities' discretion to intercept and listen to private communications. The law – more specifically the Code – also strictly limited the number of persons who had access to the intercept material, of which only a summary would be disclosed whenever sufficient. It also required the data to be destroyed as soon as they were no longer necessary and detailed records of the warrants to be kept.

In terms of supervision of the RIPA regime, under the legislation a Commissioner was appointed who was independent from the executive and legislative authorities. His annual report to the Prime Minister was a public document and was laid before Parliament. The Court found his role in ensuring that the legal provisions were applied correctly very valuable, as well as his biannual review of a random selection of specific cases in which interception had been authorized. The Court further highlighted the extensive jurisdiction of Investigatory Powers Tribunal to examine any complaint of unlawful

interception of communications. Unlike in many other countries, any person could apply to the IPT, which was an independent and impartial body. It had access to closed material and could require the Commissioner to order disclosure of all documents it considered relevant. When the IPT found in the applicant's favour, it could quash any interception order, require destruction of intercepted material and order compensation. The publication of the IPT's legal rulings further enhanced the level of scrutiny over secret surveillance activities in the United Kingdom. The Court concluded that in the present case the relevant domestic provisions indicated with sufficient clarity the procedures concerning interception warrants as well as the processing, communicating and destruction of data collected. The Court further observed that there was no evidence of any significant shortcomings in the application and operation of the surveillance regime. Therefore there had been no violation of Article 8.

Article 6 § 1

The Court reiterated that there might be restrictions on the right to fully adversarial proceedings where strictly necessary in the light of a strong countervailing public interest. Restrictions in the IPT proceedings were justified by confidentiality considerations and the nature of the issues justified the absence of an oral hearing. The Court further noted that according to Article 6 § 1 of the Convention, national security might justify the exclusion of the public from the proceedings. As to the policy of the authorities to "neither confirm nor deny", the Court found it was sufficient that an applicant be informed in those terms. The Court emphasised the breadth and convenience of access to the IPT enjoyed by those complaining about interception within the United Kingdom. Bearing in mind the importance of secret surveillance to the fight against terrorism and serious crime, the Court considered that the restrictions on the applicant's rights in the context of the proceedings before the IPT were both necessary and proportionate and were not contrary to Article 6.

Article 13

Having regard to its conclusions in respect of Article 8 and Article 6 § 1 above, the Court considers that the IPT offered to the applicant an effective remedy insofar as his complaint was directed towards the alleged interception of his communications. In respect of the applicant's general complaint under Article 8, the Court reiterated its case-law to the effect that Article 13 does not require the law to provide an effective remedy where the alleged violation arises from primary legislation (see *James and Others v. the United Kingdom*). There had accordingly been no violation of Article 13.

Oluić v. Croatia (no. 61260/08) (Importance 2) – 20 May 2010 – Violation of Article 8 – Domestic authorities' failure to take appropriate measures to protect the applicant's right to respect for private life and right to respect for home on account of night noise-disturbance which persisted for almost eight years

The applicant is a Croatian national. She owns part of a house where she lives with her family. Since December 1999, a bar has been run by a third person in the same house. In March 2001, the applicant complained to the local sanitary inspection about the excessive noise coming from that bar which was open daily between 7 a.m. and midnight. Measurements were carried out in May 2001 by an independent expert who found that the level of noise to which the applicant's dwelling was exposed at night was excessive exceeding the permitted level in domestic law by up to 8,5 decibels (dB) depending on the room in the house. The sanitary inspection ordered, in June 2001, the company which operated the bar to reduce the level of noise coming from their bar, however, the company did not comply. After additional measurements, all of which confirming the excess of noise, in February 2002 the sanitary inspection ordered the company to add sound insulation to the bar's walls so as to inhibit the noise transmission. As that order was not complied with either, the sanitary inspection ordered its enforcement. While the bar did install some insulation, it was found to be insufficient during subsequent measurements on several occasions. However, the proceedings before the sanitary inspection were discontinued in March 2003 the authorities having concluded that the noise levels coming from the bar were not excessive. The applicant challenged that conclusion before the administrative court, following which measurements, done on several nights during different periods between May 2005 and December 2008, consistently showed excessive noise reaching up to 15,6 dB above the norm at the time. The applicant further complained before the Supreme Court that the administrative court proceedings were lasting too long; the Supreme Court found in her favour and ordered the administrative court to adopt a decision within three months. The latest measurements were carried out in February 2009 and they showed no excess level of noise. The applicant submitted medical documents showing that her adult daughter, who lived in the house, suffered from hearing impairment and noise was counter-indicative for her, as well as that her husband had a weak heart which had been operated in the past.

The applicant complained that Croatia had not protected her from the disturbance caused by the excessive noise levels coming from the bar in the house in which she lived.

The Court noted that the applicant's flat was subject to night-time disturbance, which allegedly unsettled her and her family. Measurements of the noise, taken in her living quarters on numerous occasions by independent experts over the period of eight years, had consistently shown that the night-time noise had been excessive according to the applicable domestic laws. Those findings had not been denied in the domestic proceedings. The noise levels had also exceeded the standards set internationally and accepted in most European countries. In addition, the applicant had submitted medical documents advising against exposing her daughter to noise. In view of the volume of the noise – at night and beyond the permitted levels – and the fact that it continued over a number of years and nightly, the Court found that the level of disturbance had required Croatia to implement measures in order to protect the applicant from such noise. As regards the measure taken by the Croatian authorities, the Court noted that after the first measurements the local administrative authority had ordered the company running the bar to reduce the level of noise from their equipment for reproduction of music. However, this decision had not been complied with. In the proceedings that followed there had been significant delays. In particular, it had taken months before the administrative authorities had ordered, in February 2002, the owner of the bar to put sound insulation. Further, the administrative court had decided on the applicant's complaint almost four years after she had lodged it. Overall, the Croatian authorities had allowed the situation of night noise-disturbance to persist for almost eight years before the latest expert decision of February 2009 that the noise had become compatible with the admissible levels. Consequently, the Court held that Croatia had failed to take adequate measures guaranteeing the applicant's right to respect of her home and her private life, in violation of Article 8.

• Freedom of expression

Cox v. Turkey (no. 2933/03) (Importance 1) – 20 May 2010 – Violation of Article 10 – Domestic authorities' failure to provide sufficient and relevant reasons for the ban on re-entry into Turkey of a lecturer who made controversial statements on Kurdish and Armenian issues

The applicant is a national of the United States. Having worked as a lecturer at two Turkish universities during the 1980s, she was expelled and banned from re-entering the country by order of the Ministry of the Interior in 1986 on account of statements she had made before students and colleagues on Kurdish and Armenian issues. After returning to Turkey later, she was arrested in 1989 while distributing leaflets protesting against the film The Last Temptation of Christ, and subsequently expelled again. When leaving Turkey after a visit in 1996, an entry was made in her passport stating that she was banned from entering Turkey. She has been unable to return to Turkey since then. In October 1996, the applicant brought proceedings against the Ministry of the Interior before the administrative court, asking for the ban to be lifted and arguing that the reason for it was her religion. In its submissions, the Ministry maintained that the applicant had been expelled and banned from entering the country on account of her separatist activities against the national security, namely statements she had made about Turks assimilating Kurds and Armenians, and Turks forcing Armenians out of the country and committing genocide. The applicant submitted in particular that the allegations against her had not been proven and that she had never been prosecuted for having expressed those opinions. In October 1997, the administrative court rejected her claim, holding that the Ministry's decision had been in accordance with the applicable legislation. The applicant's appeal was dismissed by the Supreme Administrative Court in January 2000. The same court rejected her request for rectification of the 1997 decision in December 2001.

The applicant complained that she had been subjected to unjustified treatment on account of her religion and that expressing opinions on Kurdish and Armenian issues at a university, where freedom of expression should be unlimited, could not be used as a justification for any sanctions.

The Court reiterated that whereas the right of a foreigner to enter or remain in a country was not as such guaranteed by the Convention, immigration controls had to be exercised consistently with Convention obligations. The Court considered that the ban on re-entering Turkey imposed on the applicant on account of her previous conversations with students and colleagues constituted an interference with her rights under Article 10. It disregarded the fact that the right to freedom of expression was guaranteed without distinction between nationals and foreigners. The applicant, being precluded from re-entering, was no longer able to impart information within Turkey. The Court was prepared to accept that this interference pursued a legitimate aim, as submitted by the government, in particular the interests of national security or national integrity. However, any restriction on the rights under Article 10 had to be "necessary in a democratic society" and therefore construed strictly. The Court observed that there had never been any suggestion that the applicant had committed an offence by voicing controversial opinions on Kurdish and Armenian issues and no criminal prosecution had ever been brought against her. These opinions related to topics which continued to be the subject of heated debate, not only within Turkey but also internationally. While the opinions expressed by one side might sometimes offend the other side, a democratic society required tolerance in the face of

controversial expressions. The Court was moreover unable to see from the reasoning of the domestic courts how exactly the applicant's views were deemed harmful to Turkey's national security. The Court therefore concluded that no sufficient and relevant reason had been given by the domestic courts for the ban on the applicant's re-entry into Turkey. It had been designed to stifle the spreading of ideas. There had accordingly been a violation of Article 10.

Saygili and Bilgiç v. Turkey (no. 33667/05) (Importance 2) – 20 May 2010 – Violation of Article 10 – Unjustified interference with the applicants' freedom of expression on account of the 30-day closure of their newspaper

Mr Saygılı was the owner of the daily newspaper *Yeni Evrensel*, which the Istanbul State Security Court ordered to close for one month in November 2000 for publishing articles found to be in violation of the penal code. In June 2001, while the closure order was yet to be executed, the applicants notified the office of the Istanbul Governor of their intention to publish a new daily newspaper, named *Günlük Evrensel*. In July 2001 Mr Saygılı ceased *Yeni Evrensel*'s publication. The following day he launched the new paper with a new editor-in-chief, Mr Bilgiç, and a new team of columnists. In September 2001, the police came to the applicants' printing headquarters to execute the closure order. They found that the applicants had discontinued *Yeni Evrensel* and started to publish *Günlük Evrensel*. The police informed the public prosecutor who, in return, concluded that *Günlük Evrensel* was *Yeni Evrensel*'s successor. At his request, the Zeytinburnu Magistrate's Court issued a warrant authorising the seizure of *Günlük Evrensel*'s two recent issues. The applicants' objection to the higher criminal court - asserting that *Günlük Evrensel* was not the other paper's successor - was rejected. For the following 29 days, the same sequence of events took place. In their objections, the applicants repeatedly drew the judges' attention to the fact that as *Günlük Evrensel* had first been published on 23 July 2001 and *Yeni Evrensel* was not officially closed down until 8 September 2001, it could not possibly be *Yeni Evrensel*'s successor. Moreover, *Günlük Evrensel* had a different editorial team than that of *Yeni Evrensel*. The applicants also complained unsuccessfully to the Ministry of Justice. Meanwhile, the public prosecutor charged the applicants for having breached the shutdown order by issuing a successor newspaper. In December 2001, the Zeytinburnu Criminal Court of First Instance acquitted the applicants, finding that the two newspapers in question were unrelated. The court also revoked the seizure warrants, which had already been executed by then.

Mr Saygılı and Mr Bilgiç complained of the seizure of *Günlük Evrensel* for a period of 30 days. They also complained that they had not received a fair hearing in the proceedings concerning the seizure of the newspaper.

The Court recalled that an infringement of freedom of expression was not acceptable unless it was prescribed by law and pursued a legitimate aim, which was clearly the case here. In order to satisfy the requirements on Article 10 the measure in question also had to be "necessary in a democratic society". It also recalled that the closure order and the conviction of *Yeni Evrensel*'s editor-in-chief had already been examined by the Court in another judgment and that this conviction had been held to be in breach of Article 10. This made it unnecessary for the Court to examine again in the present case the articles published in *Yeni Evrensel*. Therefore the only task of the Court was to verify whether the grounds for closing *Günlük Evrensel* had been relevant and sufficient, and whether the closure had really been necessary. In this respect, the Court noted that the Turkish courts had subsequently realised that *Günlük Evrensel* was not connected with *Yeni Evrensel* and had revoked the seizure orders. This had happened too late, however, as the newspaper had not been distributed for a period of 30 days. On many occasions, the applicants had drawn the Turkish courts' attention to the mistake, but the courts kept on repeating the stereotyped conclusion that *Günlük Evrensel* was *Yeni Evrensel*'s successor without explaining how a newspaper which had been in publication for a period of 48 days at the time of the official closure of another newspaper could be the latter's successor. In conclusion, the interference with Mr Saygılı and Mr Bilgiç's freedom of expression had not been justified, in violation of Article 10.

Fleury v. France (no. 29784/06) (Importance 3) – 11 May 2010 – No violation of Article 10 – Proportionate conviction and sentence of town councillor found guilty for unduly accusing the town's Mayor of criminal conduct

The applicant is a French national who lives in Clohars-Carnoët in the Finistère. When he was serving there as an opposition-party town councillor he was physically assaulted by a majority councillor, who was subsequently convicted. The applicant then requested the town's Mayor, unsuccessfully, to publish an article on the matter in the municipal newsletter. In that context, in January 2003, his political group distributed a leaflet written by the applicant denouncing censorship against the group and complaining of the handling of municipal affairs by the Mayor and his team. The leaflet referred among other things to questions "about manipulations by our dear leaders, who are getting their hands

a bit too dirty", mentioning a "tender commission ... whose rules were flouted" and, about an association, asking "what are we supposed to make of the council's agenda, with Mr Mayor's wish to see M.L. represent the town in [the association]?", and "why is that association entitled to the council's generosity ...?". Following a criminal complaint lodged by the Mayor as a civil party against the applicant on grounds of defamation, the applicant was committed to stand trial in February 2004 on a charge of public defamation against a person vested with public authority. In a judgment of September 2004 the Quimper Criminal Court found that the leaflet clearly accused the Mayor of embezzlement and failure to comply with the rules for awarding public procurement contracts, and that it contained accusations of criminal conduct which manifestly impugned his honour and reputation. The court held that the applicant had not provided evidence of the veracity of his allegations, nor had he acted in good faith. He was thus found guilty of defamation against a citizen holding public office or entrusted with a public service and was ordered to pay 2,000 euros in damages, together with a fine of 4,000 euros. In March 2005 the Rennes Court of Appeal upheld that judgment in full and further ordered the applicant to pay the Mayor 1,000 in costs and expenses. In January 2006 the Court of Cassation dismissed an appeal by the applicant on points of law.

The applicant argued that he had been convicted and sentenced in breach of his right to freedom of expression.

The Court recalled that interference with freedom of expression was admissible only if it was prescribed by law and pursued a legitimate aim, which was the case here. The impugned measure also had to be "necessary in a democratic society" in order to fulfil that aim. The Court first observed that the leaflet undoubtedly concerned a subject in the general interest (management of a municipality) about which the applicant was entitled to impart information to the public. Moreover, in a case such as this, there were a number of reasons why freedom of expression warranted strong protection. Besides the fact that the comments related to political speech or matters of public interest, the Court emphasised that they were directed against a politician in his political capacity (against whom the limits of acceptable criticism were broader) and came from another politician belonging to an opposition party (a circumstance that required the Court to exercise particular scrutiny). Nevertheless, the Court noted that at the time the offending leaflet was disseminated, no public debate had been underway on the management of the municipality. Nor had the Mayor been prosecuted in that connection. Therefore, even supposing that the applicant's comments were simply a value judgment (and not a statement of fact) it would be possible to describe them as excessive. Any value judgment was required at least to have a factual basis, which was not the case here (the French courts having considered that the conduct imputed to the Mayor was not substantiated). Lastly, the Court emphasised that the accusations against the Mayor had been extremely serious and that they could appear all the more credible as they had come from a member of the town council who was supposed to be well-informed about the management of the municipality. In those circumstances, the conviction and sentence – relatively significant – had not been disproportionate to the aim of protecting the reputation of others, and the grounds invoked to justify those measures had been relevant and sufficient. The Court thus found that there had been no violation of Article 10.

- **Protection of property**

Lelas v. Croatia (no. 55555/08) (Importance 1) – 20 May 2010 – Violation of Article 1 of Protocol No. 1 – Domestic courts' unlawful interference with the applicant's right to peaceful enjoyment of possessions on account of the refusal to grant his claims for special allowances for de-mining work

The case concerned the disputed claim for special allowances for de-mining work carried out by a military serviceman. Twenty-eight similar applications against Croatia are pending before the Court.

As a serviceman employed by the Ministry of Defence, the applicant occasionally participated in de-mining operations between 1996 and 1998. On the basis of a Decision by the Minister of Defence he was entitled to a special daily allowance for such work. Since the allowances had not been paid to him, he brought a civil action against the State before the Municipal Court in May 2002. The State responded that his action was time-barred because the three-year limitation period for employment-related claims under national labour law had expired. The applicant argued that on several occasions he had asked his commanding officer why the allowances had not been paid. After making enquiries with the General Staff of the Croatian Armed Forces through his superior, the commanding officer had informed the applicant that his claims were not in dispute and would be paid once the funds for that purpose would have been allocated. Relying on that information, the applicant argued that the State had acknowledged the debt and that the running of the statutory limitation period had thus been interrupted. The Municipal Court ruled in favour of the applicant in March 2003 and ordered the State to pay him the allowances. On appeal, the County Court quashed the judgment in April 2003 and remitted the case. In June 2003 the Municipal Court again ruled in favour of the applicant, holding in

particular that the Central Finance Department of the Ministry of Defence had acknowledged the debt by not returning the lists of servicemen and the request for payment, and by informing the Regional Finance Department that payment would follow once funds would have been allocated. In March 2004, the County Court again quashed the first-instance judgment and remitted the case, holding that the applicant's commanding officer could not have acknowledged the debt on behalf of the Ministry. In April 2005, the Municipal Court for the third time ruled in favour of the applicant, holding that it did not follow from the evidence, in particular the internal regulations of the Ministry, that only the head of the Finance Department or Legal Department had been authorised to acknowledge the debt. Following a new appeal by the State, in October 2005 the County Court reversed the first-instance judgment and dismissed the applicant's action, holding in particular that the debt had not been acknowledged by the authorised persons and that the request of the Split Regional Finance Department to transfer the necessary funds had been regarded as invalid by the Central Finance Department and had been returned for further examination. The Constitutional Court dismissed the applicant's complaint against the judgment in April 2008.

The applicant complained that the refusal of the domestic courts to grant his claims infringed his right to peaceful enjoyment of his possessions.

The Court was satisfied that the applicant's claims had a sufficient legal basis to be regarded an asset protected by Article 1 of Protocol No. 1. The Decision of the Minister of Defence provided for a special daily allowance for the members of the Croatian Army carrying out de-mining work and it followed from the findings of the national courts that the applicant fulfilled all the conditions for acquiring the right to special daily allowances for such work set forth in that Decision. The refusal of the domestic courts to grant those claims accordingly constituted an interference with the applicant's right to peaceful enjoyment of possessions. The Court underlined that any interference by a public authority with this right should be lawful. It took note of the Government's argument that the refusal to grant the applicant's claims was based on the relevant provision of the Labour Act, which provided that employment-related claims expired after three years. However, the application of that provision by the domestic courts had followed from their prior finding that the Ministry of Defence did not acknowledge the debt to the applicant – an action that would have otherwise interrupted the running of the statutory limitation period – as it had not been acknowledged by an authorised person in the Ministry. The domestic courts in their final judgment had not relied on any specific legal provision that would have supported the conclusion that the debt could have been acknowledged exclusively by the head of the Ministry's Central Finance Department. The principle of lawfulness required that an individual acting in good faith was entitled to rely on statements made by public officials who appeared to have the requisite authority to do so, unless it clearly followed from publicly accessible documents that an official lacked the authority to legally bind the State. It should not be incumbent on an individual to ensure that the state authorities were adhering to their own internal rules and procedures inaccessible to the public. While sometimes the authority of a particular official to legally bind the State might be inferred from the nature of his or her office and required no explicit rule or provision, an individual had to be able to a reasonable degree to foresee the consequences which a given action might entail. In the present case, it had been established beyond doubt by the domestic courts that the applicant had been repeatedly informed by his commanding officer – who, as his immediate superior under the rules of the military hierarchy was the only person to whom he could have addressed his request – that his claims for daily allowances for de-mining work were not in dispute and would eventually be paid. In the absence of a clear legal provision as to who was authorised to acknowledge the debt on behalf of the Ministry of Defence, it was quite natural for the applicant to believe that the General Staff of the Croatian Armed Forces was an authority whose statements could be binding on the Ministry. The applicant could have reasonably believed that his commanding officer's statements constituted an acknowledgement of the debt capable of interrupting the running of the statutory limitation period. The interference with the applicant's right to protection of his property had therefore not been lawful, in violation of Article 1 of Protocol No.1.

Plalam S.P.A. v. Italy (no. 16021/02) (Importance 2) – 18 May 2010 – Violation of Article 1 of Protocol No. 1 – Delays in public subsidies resulting in the implementation of a public funding law, unfavourable to the applicant company, which had come into force after the approval of its application for subsidies

The applicant is a joint-stock company specialising in manufacturing. In 1985 it applied for funding from the Southern Italy Promotion and Development Agency ("the Agency") for the expansion of an industrial plant, under a 1979 law whereby companies operating in southern Italy could be granted public subsidies in proportion to the amounts they invested. The Agency provisionally approved the granting of subsidies for the applicant company's industrial project in 1987, and confirmed several days later that it was entitled to funding equivalent to approximately 1,880,550 euros, subject to the satisfactory operation of the industrial plant once the work was completed. In 1988, while the work was

in progress, the applicant company, having increased its investment, applied to the Agency for the subsidy to be reassessed. Since the company's plans simply entailed a "refinement" of the project, it was entitled, under the applicable law, to a proportional increase in the subsidies. The committee responsible for inspecting the industrial plant concluded in 1994 that it was operating properly and that the cost of the work carried out was consistent with the documents produced. However, as a result of a 1992 amendment to the legislation on the funding of investments in southern Italy, it found that the subsidy to be granted could be calculated only in proportion to the investment initially envisaged. As a result, the original amount awarded to the applicant company was confirmed in 1995. The Regional Administrative Court dismissed an application by the applicant company for judicial review of that decision, and an appeal it subsequently lodged with the *Consiglio di Stato* was likewise dismissed in 2001.

The applicant company complained about the implementation of a law on public funding which had come into force after the approval of its application for subsidies.

The Court noted that since the applicant company had provisionally been granted public subsidies by the Agency, it had had a "legitimate expectation" of obtaining them and had therefore had a "possession" within the meaning of Article 1 of Protocol No. 1. It could also legitimately have expected to be entitled to a proportional increase in the subsidies as it had satisfied the criteria set out in the relevant 1979 law. The Court noted in that connection that the amount of public funding promised by the authorities was a factor that influenced the scale of industrial projects planned by businesses such as the applicant company. By late June 1990 the company could legitimately have believed that it had done everything necessary to be awarded the increase it was seeking. The decision to calculate the amount of the subsidies by reference to the initial investment had had a legal basis in Italian law, namely the new 1992 legislation on the funding of investments in southern Italy, which had pursued the legitimate aims of reducing public expenditure and avoiding an uncontrolled increase in the subsidies granted to companies. Since the domestic authorities had a wide measure of discretion in the complex area of managing the State budget, the law in question could not be considered arbitrary in itself. The Court noted that the industrial plant had not been inspected until 1994, four years after full-scale production had commenced. If the relevant formalities had been carried out properly and promptly, the funding awarded to the applicant company would not have been subject to the rule that no adjustment could be envisaged in the event of an increase in investment while work was in progress. The Court further noted that the authorities had allowed procedures concerning subsidies for additional expenses to be suspended pending decisions by the Government and Parliament. The Court considered that the fair balance between the demands of the general interest and the requirements of the protection of the applicant company's fundamental rights had been upset, and therefore held that there had been a violation of Article 1 of Protocol No. 1.

- **Right to free elections**

Alajos Kiss v. Hungary (no. 38832/06) (Importance 1) – 20 May 2010 – Violation of Article 3 of Protocol No. 1 – Unjustified automatic disenfranchisement of a person placed under partial guardianship for a psychiatric condition

Diagnosed with a psychiatric condition in 1991, the applicant was placed under partial guardianship in May 2005 on the basis of the civil code. In February 2006, the applicant realised that he had been omitted from the electoral register drawn up in view of the upcoming legislative elections. His complaint to the electoral office was to no avail. He further complained to the district court, which in March 2006 dismissed his case, observing that under the Hungarian Constitution persons placed under guardianship did not have the right to vote. When legislative elections took place in April 2006, the applicant could not participate.

The applicant complained that his disenfranchisement, imposed on him because he was under partial guardianship for a psychiatric condition, constituted an unjustified deprivation of his right to vote, which was not susceptible to any remedy since it was prescribed by the Constitution, and which was discriminatory in nature.

The Court observed that the object of the complaint was not the placement of the applicant under partial guardianship, the necessity of which he had accepted, but its automatic consequence prescribed in the Constitution, namely his disenfranchisement. The Court had established in its case-law that Article 3 of Protocol No. 1 guaranteed individual rights, including the right to vote and to stand for election. While those rights were not absolute, the Court had to satisfy itself that any limitations on them did not impair their very essence. As to the question whether the applicant's disenfranchisement, as prescribed by the Hungarian Constitution, pursued a legitimate aim, the Court accepted the Government's argument that the measure aimed to ensure that only citizens capable of assessing the consequences of their decisions and making conscious and judicious decisions should participate in public affairs. The Court noted that the restriction did not distinguish between persons placed under

total and those under partial guardianship and that it was removed once guardianship ended. It further observed the applicant's assertion, which was not refuted by the Government, that 0.75% of the Hungarian population of voting age were concerned by disenfranchisement on account of being under guardianship in an indiscriminate manner. This was a significant figure, which could not be claimed to be negligible in its effects. The Court accepted that it should be for the legislature to decide on what procedure should be followed in order to assess the fitness to vote of mentally disabled persons. There was, however, no evidence that the Hungarian legislature had ever sought to weigh the competing interests or to assess the proportionality of the restriction as it stood. The Court could not accept an absolute bar on voting rights applied to any person under partial guardianship irrespective of his or her actual faculties. The State had to provide weighty reasons when applying a restriction on fundamental rights to a particularly vulnerable group in society, such as the mentally disabled. Having suffered considerable discrimination and social exclusion in the past, this group was at a risk of being subject to legislative stereotyping. The applicant had lost his right to vote as a result of the imposition of an automatic, blanket restriction on the franchise of those under partial guardianship. The Court could not speculate as to whether he would have been deprived of the right to vote even if a more limited restriction in compliance with Article 3 of Protocol No. 1 had been imposed. The Court further considered that treating persons with mental abilities as a single group was a questionable classification. Demanding strict scrutiny of the curtailment of their rights was in accordance with other instruments of international law, including the United Nations Convention on the Rights of Persons with Disabilities. In the light of these considerations, the Court concluded that there had been a violation of Article 3 of Protocol No. 1.

- **Disappearance cases in Chechnya**

Dzhabrailovy v. Russia (no. 3678/06) (Importance 3) – 20 May 2010 – Violations of Article 2 (substantive and procedural) – Abduction and killing of the applicants' close relative, Valid Dzhabrailov – Lack of an effective investigation in that respect – Violation of Article 3 – Lack of an effective investigation into the alleged ill-treatment of the first applicant – Violation of Article 5 – Unlawful detention of the first applicant and of the applicants' close relative – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Shakhabova v. Russia (no. 39685/06) (Importance 3) – 12 May 2010 – Violations of Article 2 (substantive and procedural) – Disappearance and presumed death of the applicant's son, Adam Khurayev – Lack of an effective investigation in that respect – Violation of Article 3 – The applicant's mental suffering – Violation of Article 5 – Unacknowledged detention of the applicant's son – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Suleymanova v. Russia (no. 9191/06) (Importance 3) – 12 May 2010 – Violations of Article 2 (substantive and procedural) – Killing of the applicant's close relatives Ramzan Suleymanov, Petimat Aydamirova, Ibragim Suleymanov and Aslanbek Aydamirov – Lack of an effective investigation – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 12 May. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 18 May. 2010: here
- Press release by the Registrar concerning the Chamber judgments issued on 20 May. 2010: here

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Austria	12 May 2010	Kammerer (no. 32435/06) Imp. 2	No violation of Art. 6 §§ 1 and 3 (c)	The administrative criminal proceedings against the applicant had not been unfair on account of his absence from the hearing before the Independent Administrative	Link

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

				Panel, because the applicant was represented by counsel, who attended the hearing in which he had been able to argue the applicant's case and because the proceedings before the IAP concerned a minor sum of money (a fine of EUR 72)	
Greece	12 May 2010	Kalogranis and Kalograni (no. 17229/08) Imp. 3	Violation of Art. 6 § 1 (fairness)	Non-enforcement of a 1995 Supreme Administrative Court judgment concerning a plot of land that should have been returned to the applicants' grandfather of whom the applicants are the heirs	Link
Italy	18 May 2010	Ogaristi (no. 231/07) Imp. 3	Violation of Art. 6 §§ 1 and 3 (d) (fairness)	Hindrance to the applicant's right to examine a witness on whose testimony his conviction was based either during the investigation stage or at the hearing	Link
Italy	18 May 2010	Udorovic (no. 38532/02) Imp. 3	No violation of Art. 6 § 1 (fairness) Violation of Art. 6 § 1 (fairness)	Justified lack of a public hearing Wrong assessment by court of appeal of important facts related to the discriminatory character of the municipality's decisions to evacuate a Sinti encampment	Link
Moldova	18 May 2010	Vetrenko (no. 36552/02) Imp. 2	Violation of Art. 6 § 1 (fairness)	Domestic courts' failure to give sufficient reasons for the applicant's conviction which had been based on self-incriminatory statements that he had made without having access to the lawyer chosen by him	Link
Poland	18 May 2010	Belka (no. 20870/04) Imp. 3 Czekień (no. 25168/05) Imp. 3 Szal (no. 41285/02) Imp. 2	Violation of Art. 6 § 1	Unfairness of compensation proceedings concerning compensation entitlements granted by the Polish-German Reconciliation Foundation to victims of various forms of persecution by the German occupational authorities during the Second World War	Link Link Link
Romania	18 May 2010	Bessler (no. 25669/04) Imp. 3	Violation of Art. 6 § 1 (fairness)	Domestic courts' dismissal of the applicant's action for the recovery of possession of buildings that had been illegally nationalised by the State, without an examination of the merits of her claims	Link
Russia	20 May 2010	Larin (no. 15034/02) Imp. 3	Violation of Art. 6 § 1 (fairness)	Unfairness of proceedings on account of the hindrance to the applicant's right to present his case effectively and on an equal footing *vis-à-vis* the opposite party	Link
Turkey	20 May 2010	Özdemir (no. 4574/06) Imp. 3	Violation of Art. 6 § 1 (fairness)	Lack of access to a court on account of the refusal to grant the applicant legal aid for compensation proceedings concerning damage sustained after having contracted hepatitis B during his military service	Link
Turkey	20 May 2010	Araz (no. 44319/04) Imp. 3	Violation of Art. 5 §§ 3 and 5 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention (over four years and two months) and lack of an enforceable right to compensation for the applicant's deprivation of liberty Excessive length of criminal proceedings (over ten years and eight months before two levels of jurisdiction)	Link
Turkey	20 May	Aytimur (no. 20259/06)	Violation of Art. 5 §§ 4 and 5	Excessive length of pre-trial detention and no effective remedy	Link

	2010	Imp. 3 Erhan Dinç (no. 28551/06) Imp. 3		to contest its lawfulness	Link
Turkey	20 May 2010	Baran and Hun (no. 30685/05) Imp. 2	Violations of Art. 3 (substantive and procedural) Violation of Art. 6 §§ 1 and 3 (c) (fairness)	Torture in police custody in order to obtain information from the first applicant about her suspected connection with an illegal armed organisation and lack of an effective investigation Conviction on the basis of statements obtained under torture as regards the first applicant, and purportedly under ill-treatment as regards the second applicant, during the preliminary investigation, in the absence of their lawyer	Link
Turkey	20 May 2010	Gedik (nos. 22478/06 and 37667/08) Imp. 3	Violation of Art. 5 §§ 3 and 4	Excessive length of pre-trial detention (more than thirteen years) and lack of an effective remedy to challenge its lawfulness	Link
Ukraine	20 May 2010	Galat (no. 716/05) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of criminal proceedings (almost six years for three levels of jurisdiction) for embezzlement of State funds	Link
Ukraine	20 May 2010	Kamyshev (no. 3990/06) Imp. 3	Violation of Art. 5 §§ 1 (f) and 4	Lack of a sufficient legal basis both for the applicant's detention pending extradition proceedings and for the lack of regular review of the lawfulness of his detention	Link
Ukraine	20 May 2010	Kurochkin (no. 42276/08) Imp. 3	Violation of Art. 8	Disproportionate interference with the applicant's right to respect for family life on account of domestic courts' failure to give relevant and sufficient reasons to justify the annulment of the adoption of an orphan boy by the applicant	Link
Ukraine	20 May 2010	Moskalenko (no. 37466/04) Imp. 3	Violation of Art. 5 § 3	Excessive length of detention on remand (more than four years and ten months)	Link
	20 May 2010	Myrskyy (no. 7877/03) Imp. 3	Violation of Art. 10	Domestic courts' failure to give relevant and sufficient reasons for finding that the statements ascribed to the applicant regarding an extremist and anti-Semitic position of a political party, defamed the plaintiffs	Link
Ukraine	20 May 2010	Pelevin (no. 24402/02) Imp. 3	Violation of Art. 6 § 1 (fairness)	Excessive restriction of the applicant's right of access to a court on account of the Supreme Court's initial failure to review the applicant's case within the ordinary cassation review proceedings	Link
Ukraine	20 May 2010	Pokhlebin (no. 35581/06) Imp. 3	Two violations of Art. 3 (ill-treatment)	Conditions of detention in Simferopol ITT and lack of appropriate medical assistance for the applicant's numerous health problems (Aids, tuberculosis, chronic hepatitis and candidiasis)	Link
Ukraine	20 May 2010	Ukraine-Tyumen (no. 22603/02) Imp. 2	Just satisfaction	Judgment on satisfaction following the judgment of 22 November 2007 concerning violation of Art. 6 § 1 and Art. 1 of Prot. 1	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
Italy	18 May 2010	Di Cola (no. 44897/98) link	Just satisfaction	Judgment on just satisfaction following the judgment of 15 December 2005 concerning a violation of Art. 1 of Prot. 1
Russia	12 May. 2010	Gulyayev (no. 20023/07) link	Violation of Art. 6 § 1	Quashing of a final judgment in the applicant's favour by way of supervisory review
Russia	12 May. 2010	Privalikhin (no. 38029/05) link Yeldashev (no. 5730/03) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments in the applicants' favour in good time
Russia	20 May 2010	Butenko and Others (nos. 2109/07, 2112/07, 2113/07 and 2116/07) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1 Violation of Art. 13	Domestic authorities' failure to enforce final judgments in the applicants' favour Lack of an effective remedy before a national authority for a prolonged non-enforcement of a binding judgment
Russia	20 May 2010	Garagulya (no. 12157/06) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Quashing of a final judgment in the applicant's favour by way of supervisory review
Turkey	18 May 2010	Oktaş and Others (nos. 14604/05, 14609/05, 28820/05, 28822/05, 40338/05, 42038/05, 45287/05 and 45297/05) link	Violation of Art. 6 § 1	Domestic authorities' lengthy delay in paying compensation for the expropriation of the applicants' land
Turkey	20 May 2010	Nural Vural (no. 16009/04) link Rimer and Others (no. 18257/04) link Şatir (no. 36192/03) link	Just satisfaction	Judgment on satisfaction following the judgment of 10 March 2009 concerning a violation of Art. 1 of Prot. 1
Turkey	20 May 2010	Nurten Yavuz (no. 14295/05) link	Violation of Art. 6 § 1 (fairness)	Domestic authorities' non-enforcement of a final judgment in the applicant's favour with regard to a provisional title deed of property

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
Austria	20 May 2010	VR-Bank Stuttgart eG (no. 28571/06)	Link
Croatia	20 May 2010	Rogošić (no. 55520/07)	Link is not available
Greece	20 May 2010	Tsaganou and Georgiou (no. 18556/08)	Link
Italy	18 May 2010	Brignoli and Others (nos. 19877/03, 32969/02 etc.)	Link
Italy	18 May 2010	Limata and Others (nos. 5486/03, 5491/03 etc.)	Link
Poland	18 May 2010	Kaniewska (no. 8518/08)	Link
Poland	18 May 2010	Przybylska-Conroy (no. 49490/08)	Link
Romania	18 May 2010	Ciută (no. 35527/04)	Link
Slovakia	18 May 2010	Bíro (No. 3) (no. 22050/05)	Link
Slovakia	18 May 2010	Bíro (No. 4) (no. 26456/06)	Link
Slovakia	18 May 2010	Bíro (No. 5) (no. 45109/06)	Link
Slovakia	18 May 2010	Kocianová (no. 21692/06)	Link
Slovakia	18 May 2010	Kocianová (No. 2) (no. 45167/06)	Link
Turkey	20 May 2010	Bakırcıoğlu and Others (no. 41123/04)	Link
Ukraine	20 May 2010	Mkrtchyan (no. 21939/05)	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 19 April to 2 May 2010**.

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

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Austria	22 Apr. 2010	Vögel (no 4263/09) link	Alleged violation of Art. 6 § 1 (unfairness and excessive length of administrative proceedings)	Struck out of the list (friendly settlement reached)
Croatia	22 Apr. 2010	Lazić (no 55507/07) link	Alleged violation of Art. 6 § 1 (excessive length of two sets of civil proceedings)	Partly inadmissible as manifestly ill-founded (the applicant can no longer claim to be a victim of violation), partly inadmissible for non-exhaustion of domestic remedies
Croatia	22 Apr. 2010	Čular (no 55213/07) link	Alleged violation of Art. 1 of Prot. 1 (domestic courts' refusal to grant the applicant's claim for payment of the real value of the money seized from him in 1984)	Incompatible *ratione temporis* (the Convention entered into force in respect of Croatia on 5 November 1997, after the date of events)
Croatia	29 Apr. 2010	Masood (no 24613/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Croatia	29 Apr. 2010	Rohr (no 16725/08) link	Idem.	Idem.
Cyprus	29 Apr. 2010	Çakir and Others (no 7864/06) link	The complaints raised in the present application concern events that took place during the second round of military operations by Turkey in northern Cyprus in August 1974. Alleged violation of Art. 2 (killing of the applicants' relatives and lack of an effective investigation in that respect), Articles 3 and 8 (the applicants' suffering caused by the killings of their relatives and by the lack of an effective investigation in that regard), Art. 13 (lack of an effective remedy) and Art. 14 (discrimination due to the	Incompatible *ratione temporis*

			applicants' Turkish-Cypriot origin and Muslim religion)	
France	20 Apr. 2010	Duteil (no 3221/10) link	Alleged violation of Art. 6 § 1 and 13 (lack of an effective remedy to challenge the applicant's loss of points from his driver's licence) and Art. 6 § 3 a) (failure to inform the applicant about the fact that the loss of points would amount to an annulment of his driver's license)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
France	29 Apr. 2010	Stoica (no 46535/08) link	Alleged violation of Art. 7 (the applicant alleged that the domestic legislation didn't provide a clear definition of an "intermediary" concerning adoption matters)	Idem.
France	29 Apr. 2010	El Orabi (no 20672/05) link	Alleged violation of Art. 14 in conjunction with Art. 1 of Prot. 1 (refusal to grant the applicant her pension on account of the fact that she wasn't a French national)	Inadmissible for non-exhaustion of domestic remedies (the applicant failed to provide evidence to substantiate her claim in front of the domestic courts)
France	29 Apr. 2010	Le Pen (no 18788/09) link	Alleged violation of Art. 10 (criminal conviction for the applicant's statements in a French magazine for instigation to discrimination and racism against the Islam), and Art. 6 § 1 (Court of Cassation's failure to provide sufficient reasoning of its decision)	Inadmissible as manifestly ill-founded (the interference with the applicant's right to freedom of expression was "necessary in a democratic society" concerning claims under Art. 10 and no violation of the rights and freedoms protected by the Convention regarding the claim under Art. 6)
France	29 Apr. 2010	Marc-Antoine (no 37377/06) link	Alleged violation of Art. 6 § 1 (presence of the commissioner of the Government to the deliberations of the *Conseil d'Etat*) and Articles 13, 14 and Prot. 12 (lack of impartiality of the *Conseil d'Etat*, unfairness of proceedings, lack of an effective remedy)	Partly struck out of the list (unilateral declaration of the Government concerning claims under Art. 6), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
France	29 Apr. 2010	Verrier (no 1958/06) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings due to the presence of the magistrate representing the Government for both levels of jurisdiction) and Art. 6 §§ 1 and 3 d) (hindrance to the applicant's right to question the civil party)	Inadmissible (for non-exhaustion of domestic remedies)
Georgia	29 Apr. 2010	Pirtskhalaishvili (no 44328/05) link	Alleged violation of Articles 6, 13 and 1 of Prot. 1 (the applicant's inability to retrieve the judgment debt)	Inadmissible (the application was rejected as "abusive" for failing to provide the Court with complete information on the case)
Greece	20 Apr. 2010	Karamolegos (no 3920/09) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings due to the Court of Cassation's confirmation of the applicant's conviction)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Italy	27 Apr. 2010	Barelli and Others (no 15104/04) link	Alleged violation of Art. 3 and Art. 8 (degrading treatment on account of the social service's handling of the applicants' cases, prolonged separation from their children) and Art. 6 (unfairness of proceedings)	Inadmissible as manifestly ill-founded (the measures taken were proportionate to the aim pursued and in the interest of the children; fairness of proceedings)
Italy	27 Apr. 2010	Morabito (no 21743/07) link	Alleged violation of Art. 6 (unfairness of criminal proceedings and lack of impartiality of the Milan Court of Appeal)	Partly inadmissible as manifestly ill-founded (no violation of the right and freedoms protected by the Convention concerning the unfairness of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the lack of impartiality of the Milan Court of Appeal)

Italy	27 Apr. 2010	Zeno and Others (no 1772/06) link	Alleged violation of Art. 8 and Art. 1 of Prot. 1 (seizure of the apartment where the applicants were residing), Art. 6 §§ 1 and 2 (unfairness of proceedings and infringement of the principle of presumption of innocence), Art. 13 (lack of an effective remedy in respect of alleged seizure)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the seizure of the apartment), partly incompatible *ratione personae* (concerning the unfairness of proceedings), partly, incompatible *ratione materiae* (lack of an "arguable" claim concerning the claims under Art. 13)
Italy	27 Apr. 2010	De Sanctis S.R.L. and Igea '98 S.R.L. (no 29386/02) link	Alleged violation of Art. 1 of Prot. 1 (the applicants complained about the prohibition to build on the land belonging to them)	Partly incompatible *ratione personae* (the first applicant cannot claim to be a "victim" of violation), partly inadmissible for non-exhaustion of domestic remedies (concerning the second applicant)
Moldova	27 Apr. 2010	Bogatu (no 36748/05) link	Alleged violation of Art. 6 (failure to summon the applicant to the hearing of her appeal) and Art. 11 (breach of the right to freedom of assembly due to the sanction imposed on her)	Struck out of the list (the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application after the Government's unilateral declaration (Article 37 § 1 *in fine*))
Poland	27 Apr. 2010	Wilczyński (no 43619/08) link	The application concerned the lack of effective access to a court on account of the legal-aid lawyer's refusal to prepare and file a cassation complaint with the Supreme Court	Struck out of the list (unilateral declaration of Government)
Poland	27 Apr. 2010	Woliński (no 53653/07) link	The application concerned the lack of effective access to a court on account of the legal-aid lawyer's refusal to prepare and file a cassation complaint with the Supreme Court and the outcome and unfairness of proceedings	Partly struck out of the list (unilateral declaration of the Government concerning denial of the applicant's access to the Supreme Court), partly inadmissible (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Poland	27 Apr. 2010	Klocek (no 20674/07) link	Alleged violation of Art. 8 (the applicant's deprivation of legal means for challenging his paternity), Art. 14 in conjunction with Art. 8 (treatment in a discriminatory manner in comparison with fathers whose children were born in wedlock, as he did not have a right of action to challenge paternity)	Inadmissible as manifestly ill-founded (fair balance between the general interest in ensuring legal certainty of family relationships and the applicant's right to have his judicially established paternity reviewed and lack of an "arguable" claim under Art. 14)
Poland	27 Apr. 2010	Sobolewski (no 19852/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Poland	27 Apr. 2010	*L'Eglise Orthodoxe Autocephale de Pologne* (no 31994/03) link	In particular alleged violation of Art. 9 and Art. 1 of Prot. 1 (the applicant alleged that the unresolved property issues concerning a temple amounted to an interference with its right to freedom of religion), Art. 13 (lack of an effective remedy), Art. 14 (difference of treatment between the Catholic Church and the Orthodox-Byzantine Church)	Struck out of the list (the applicant no longer wished to pursue its application)
Poland	27 Apr. 2010	Wysoccy (no 14603/02) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Portugal	29 Apr. 2010	Fernandes and Others (no 28776/08) link	Alleged violation of Art. 1 of Prot. 1 and Articles 14, 17 and 18 (the increase of the social fund imposed by new legislation caused the applicants loss in their shares), Articles 6 § 1 and 13 (excessive	Partly adjourned (concerning the length of proceedings), partly incompatible *ratione personae* (concerning the unfairness of proceedings), partly inadmissible for non-exhaustion of domestic

			length and unfairness of administrative and civil proceedings)	remedies (concerning the remainder of the application)
Romania	27 Apr. 2010	Pop (no 33222/04) link	Alleged violation of Art. 1 of Prot. 1 (illegal nationalisation of the applicants' property)	Struck out of the list (applicants no longer wished to pursue their application)
Romania	27 Apr. 2010	*Paroisse Greco-Catholique Ticvaniul Mare* (no 2534/02) link	Alleged violation of Articles 6, 9, 13 and 14 and Art. 1 of Prot. 1	Struck out of the list (friendly settlement reached)
Russia	22 Apr. 2010	Ilyin (no 15647/05) link	The applicant complained about the failure of the Russian Federation to redeem the 1982 State premium bonds without relying on a particular provision	Struck out of the list (applicant no longer wished to pursue his application)
Russia	29 Apr. 2010	Shcherbinin (no 39678/07) link	Alleged violation of Art. 3 (inhuman and degrading conditions of detention in IZ-77/1 of Moscow), Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (various procedural defects of the judicial proceedings)	Struck out of the list (the applicant did not submit any observations within the time-limit established for their submission and it is no longer justified to continue the examination of the application)
Russia	29 Apr. 2010	Mamedov (no 33237/04) link	Alleged violation of Articles 3, 6 and 13 (ill-treatment during arrest and lack of an effective remedy)	Struck out of the list (the applicant no longer wished to pursue his application)
Russia	29 Apr. 2010	Novitskaya (Mordashova) (no 9159/04) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 5 of Prot. 7 (infringement of freedom of movement as the supervisory review court had wrongly regarded the applicant's place of residence as a relevant factor in the determination of the case)	Struck out of the list (applicant no longer wished to pursue her application)
Russia	29 Apr. 2010	K.M. and Others (no 46086/07) link	Alleged violation of Art. 3 (the applicant alleged that her deportation to China put her at real risk of being subjected to inhuman and degrading treatment; that she had been granted refugee status by the UNHCR and that the Russian authorities had breached a number of international and domestic legal norms by deporting her to China, especially in view of the pending court procedure concerning her asylum request and on account of the deportation of the second applicant, a minor who was born and lived in Russia), Art. 5 § 1 (f) (illegal detention prior to and during the deportation to China), Art. 8 (deportation of second applicant, minor), Art. 13 (lack of an effective remedy in respect of Articles 3 and 5) and Art. 1 of Prot. 7 (deportation in violation of guarantees for aliens lawfully residing in the territory of a Contracting Party)	Partly incompatible *ratione personae* (concerning the first and second applicants), partly inadmissible as manifestly ill-founded (the third applicant had no legal grounds entitling her to remain in Russia and no violation of the rights and freedoms protected by the Convention concerning the reminder of the application)
Serbia	29 Apr. 2010	Katić (no 13920/04) link	Alleged violation of Articles 6 § 1, 13 and 14 and Art. 1 of Prot. 1 (unfairness and length of compensation proceedings)	Struck out of the list (friendly settlement reached)
Serbia	29 Apr. 2010	Mijajlović (no 42973/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (the applicant informed the Court that he wanted to withdraw the application: it is no longer justified to continue the examination of the application)
Slovenia	29 Apr.	Bergles and Others (no	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil	Struck out of the list (it is no longer justified to continue the

	2010	17019/06; 29866/06 etc.) link	proceedings and lack of an effective remedy)	examination of the application)
Slovenia	29 Apr. 2010	Softić (no 16168/06; 23040/06 etc.) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil proceedings and lack of an effective remedy), Art. 6 § 1 (unfairness of proceedings)	Struck out of the list (the matter could be considered resolved at the domestic level)
Slovenia	29 Apr. 2010	Majcen (no 28186/06; 29157/06 etc.) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil proceedings and lack of an effective remedy)	Struck out of the list (it is no longer justified to continue the examination of the applications)
Slovenia	29 Apr. 2010	Avbelj (no 44485/06; 48785/06 etc.) link	Idem.	Idem.
Slovenia	27 Apr. 2010	Balažic (no 39141/03) link	Idem.	Struck out of the list (applicant no longer wished to pursue his application)
Spain	27 Apr. 2010	Agbons Bejet (no 59819/08) link	In particular alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 8 (the extradition procedure against the applicant's partner caused his exclusion from the adopting procedure with his son), Art. 14 (difference of treatment in comparison to other extradition and adoption proceedings and Art. 13 (lack of legal protection of the applicant against the violation of his rights provided by the Convention)	Partly adjourned (concerning claims under Art. 8), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
the United Kingdom	27 Apr. 2010	Larke and Others (no 25402/02; 7692/03 etc.) link	Alleged violation of Art. 14 taken in conjunction with Art. 8 and Art. 1 of Prot. 1 (the applicant's pensions were not up-rated in line with inflation, whereas pensions in the United Kingdom and certain other countries were up-rated), Art. 8 and Art. 1 of Prot. 1 alone, and Art. 13 (alleged lack of impartiality of domestic courts, concerning Mr. Harvard)	Partly inadmissible for non-exhaustion of domestic remedies (concerning issues arising under Article 8 of the Convention, taken alone and in conjunction with Article 14, which had never been raised before the domestic courts), partly inadmissible as manifestly ill-founded (failure to substantiate the complaint under Art. 13)
the United Kingdom	27 Apr. 2010	Miah (no 53080/07) link	Alleged violation of Art. 3 (violation due to the applicant's deportation to Bangladesh), Art. 7 (the Immigration Rules were changed to impose a presumption in favour of deportation after the applicant had been sentenced) and Art. 8 (disproportionate interference with the applicant's family life on account of his deportation)	Partly inadmissible as manifestly ill-founded (the mere fact of return to a country where one's economic position will be worse than in a Contracting State was not sufficient to meet the threshold of ill-treatment proscribed by Article 3 and the applicant's deportation was legitimate to the aim pursued concerning claims under Art. 8), partly incompatible *ratione materiae* (concerning claims under Art. 7)
the United Kingdom	27 Apr. 2010	Springett and Others (no 34726/04; 14287/05; 34702/05) link	Alleged violation of Art. 1 of Prot. 1 in conjunction with Art. 14 (refusal to grant Winter Fuel Payment based on the date on which each of the applicants had left the United Kingdom)	Incompatible *ratione materiae* (Art. 14 was inapplicable since the applicants, residing in France and Spain, cannot claim to be in a relevantly similar position to United Kingdom residents)
Turkey	29 Apr. 2010	Baytap (no 17579/05) link	Alleged violation of Art. 3 (ill-treatment in police custody), Art. 5 §§ 1 (c) and 2 (unlawful detention and the applicant was not duly informed of the charges against him), Art. 5 § 3, 4 and 5 (excessive length of detention, lack of an effective remedy to challenge that length and to require a compensation for alleged detention), Art. 6 § 1 and 13	Partly adjourned (concerning claims under Art. 5 §§ 3, 4 and 5, Art. 6 § 1 and Art. 13), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 3, Art. 6 § 1 and Art. 8 (right to respect for private and family life)), partly inadmissible for non-respect of the six-month requirement (concerning claims under Art. 5 §§ 1 and 2),

			(excessive length of proceedings and lack of an effective remedy), Articles 6 §§ 1, 2 and 3 (b), (c), (d) (unfairness of proceedings, infringement of the presumption of innocence due to the published articles on the newspapers, the applicant denied access to legal assistance in police custody), Art. 8 (as a result of the media coverage of the case, the applicant's family had suffered considerable pressure and distress, interference with the applicant's right to respect for correspondence)	partly inadmissible as manifestly ill-founded concerning the alleged violation of the right to respect for correspondence (lack of an arguable claim)
Turkey	29 Apr. 2010	Alevci (no 7888/05) link	Application concerning Art. 6 § 1 and Art. 1 of Prot. 1	Struck out of the list (friendly settlement reached)
Turkey	29 Apr. 2010	Akbaş and Others (no 51829/09) link	Alleged violation of Art. 3 (ill-treatment in police custody and coercion into making self-incriminating statements), Articles 5, 6, 7 and 13 (excessive length of pre-trial detention and proceedings and lack of an effective remedy in that respect), Art. 6 (unfairness of proceedings as the trial court had relied on the applicants' statements extracted from them through ill-treatment in police custody)	Partly adjourned (concerning excessive length of detention and proceedings and the lack of an effective remedy), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 6), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Turkey	29 Apr. 2010	Çetinkaya (no 19866/04) link	Alleged violation of Art. 3 (the applicant's state of health was allegedly incompatible with his detention), Art. 5 (excessive length of detention), Art. 6 (unfairness of proceedings) Art. 6 § 2 and Art. 13 (infringement of the presumption of innocence due to articles published by the media on the applicant's guilt, and lack of an effective remedy)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the unfairness of proceedings), partly adjourned (concerning the remainder of the application)
Turkey	29 Apr. 2010	Besen and Others (no 33308/02) link	Alleged violation of Art. 1 of Prot 1 (domestic authorities' refusal to register the disputed property in the applicants' name), Art. 6 § 1 (unfairness of proceedings)	Partly incompatible *ratione materiae* (the applicants cannot be considered as owners of the disputed property), partly inadmissible as manifestly ill-founded (fairness of proceedings concerning claims under Art. 6)
Turkey	29 Apr. 2010	Eryilmaz (no 18814/05) link	Alleged violation of Art. 6 and 13 (unfairness of proceedings and lack of an effective remedy)	Inadmissible as manifestly ill-founded (fairness of proceedings concerning claims under Art. 6 and failure to substantiate claims under Art. 13)
Turkey	29 Apr. 2010	Turak (no 21114/06) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 1 of Prot. 1 (annulment of the applicant's property title)	Inadmissible (for non-exhaustion of domestic remedies)
Turkey	29 Apr. 2010	Gökçe and Others (no 13357/07; 9961/08 etc.) link	Alleged violation of Art. 6 (unfairness and excessive length of proceedings, lack of impartiality of domestic courts), Art. 5 §§ 3, 4 and 5 (excessive length of detention, lack of an effective remedy to challenge that length and to obtain compensation)	Partly adjourned (concerning claims under Art. 5 §§ 3, 4 and 5), partly inadmissible for non-respect of the six-month requirement (concerning under Art. 5 §§ 3 and/or 5), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Turkey	29 Apr. 2010	Bayir (no 18260/06) link	Alleged violation of Art. 1 of Prot. 1 (allocation of the applicant's land for the building of "an education establishment")	Inadmissible (for non-exhaustion of domestic remedies)
Ukraine	27 Apr. 2010	Lysenky (no 6644/02) link	Alleged violation of Articles 6 and 13, Art. 1 of Prot. 1 and Art. of Prot. 7 (domestic authorities' failure to act	Struck out of the list (the applicants no longer wished to pursue their application)

			in a timely and effective manner in investigating the theft of the applicants' property and in prosecuting the person who had assaulted them, excessive length of criminal proceedings and lack of compensation)	
Ukraine	27 Apr. 2010	Rozgon (no 26122/08) link	Alleged violation of Art. 8 (lack of access to the applicant's minor daughter living with the father)	Struck out of the list (applicant no longer wished to pursue her application)
Ukraine	27 Apr. 2010	Antonenko and Omelyanchik (no 7474/06; 30908/08) link	Alleged violation of Art. 6 § 1 and 13 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
Ukraine	27 Apr. 2010	Peridriy (no 10429/06; 2850/07 etc.) link	The application concerned a lengthy non-enforcement of judgments given in the applicants' favour against the State entities or companies and the lack of an effective remedy in that respect	Struck out of the list (the applicants no longer wished to pursue their application)
Ukraine	27 Apr. 2010	Kotsarenko (no 12012/04) link	Alleged violation of Articles 6 § 1 and 1 of Prot. 1 (the non-enforcement of a judgment given in the applicant's favour)	Inadmissible (for non-exhaustion of domestic remedies)
Ukraine	27 Apr. 2010	Baranov (no 6764/07) link	Idem.	Struck out of the list (no general interest to proceed with the examination of the complaints raised)
Ukraine	27 Apr. 2010	Orlov (no 5842/05) link	Alleged violation of Art. 5 §§ 1(b) and 5 (unlawful detention), Art. 6 § 1 and Art. 2 § 1 of Prot. 7 (Supreme Court's refusal to examine the applicant's appeal in cassation and excessive length of criminal proceedings), Art. 8 § 1 (search of the applicant's apartment and seizure of property), Art. 13 (lack of an effective remedy in respect of Art. 8), Art. 2 § 1 of the Protocol No. 4 (the applicant's unlawful denial of entry to Ukraine on 21 December 2001 and the ensuing expulsion)	Partly adjourned (concerning the length of criminal proceedings), partly inadmissible (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	27 Apr. 2010	Levadna (no 7354/10) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings concerning the return of the applicant's child to Italy), Art. 8 (decision of the Court of Appeal to return her child to Italy was not based on a correct assessment of facts and application of law)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Ukraine	27 Apr. 2010	Suprun (no 7529/07) link	Alleged violation of Art. 2 (domestic authorities' failure to conduct an effective investigation into the applicant's daughter's disappearance and lack of an effective remedy in that regard), Art. 6 § 1 (unfairness of civil proceedings)	Inadmissible as manifestly ill-founded (the Court considered that the investigation was reasonable and prompt to secure sufficient evidence to establish the essential circumstances of the incident, including the cause of death of the applicant's daughter)
Ukraine	27 Apr. 2010	Kruk (no 8735/07; 42278/07 etc.) link	The application concerned the non-enforcement of final judgments in the applicants' favour	Struck out of the list (friendly settlements reached)

C. The communicated cases

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

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

- on 17 May 2010 : link
- on 24 May 2010 : link

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

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

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

Communicated cases published on 17 May 2010 on the Court's Website and selected by the NHRS Unit

The batch of 17 May 2010 concerns the following States (some cases are however not selected in the table below): Austria, Belgium, Bulgaria, Finland, France, Georgia, Germany, Greece, Latvia, Moldova, Poland, Portugal, Russia, Serbia, Slovakia, Slovenia, Spain, the United Kingdom, Turkey and Ukraine.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Belgium	27 Apr. 2010	Yoh-Ekale Mwanje no 10486/10	Alleged violation of Art. 3 – If expelled to Cameroon the applicant risks not having adequate medical care for her illness – Conditions of detention – Has the applicant's state of health deteriorated due to the conditions of detention? – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 8 – Interference with the applicant's physical and mental integrity – Alleged violation of Art. 13 – Lack of an effective remedy
France	30 Apr. 2010	H.R. no 64780/09	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Algeria – Alleged violation of Art. 13 – Lack of an effective remedy
France	29 Apr. 2010	J.A no 5180/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Sri Lanka
France	26 Apr. 2010	A. N. no 55762/09	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Afghanistan – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 4 of Prot. 4 – Prohibition of collective expulsions
Georgia	26 Apr. 2010	Mikiachvili no 18996/06	Alleged violation of Art. 3 – Ill-treatment during arrest, in police custody, in Tbilisi prison hospital and in the court building – Lack of an effective investigation into the alleged ill-treatment – Alleged violation of Art. 5 § 3 – Lack of sufficient reasoning to justify the applicant's detention
Moldova and Russia	27 Apr. 2010	Antonov, Băluță and Bezrodnîi nos. 315/10, 1153/10 and 1158/10	Do the applicants come within the jurisdiction of Moldova and/or Russia within the meaning of Article 1 of the Convention as interpreted by the Court, *inter alia,* in the case of *Ilaşcu and Others v. Moldova and Russia* on account of the circumstances of the present case? – Did the applicants exhaust "all domestic remedies? – Alleged violation of Art. 3 (Mr Bezrodnîi) – Ill-treatment upon his arrest and thereafter – Alleged violation of Art. 3 (all applicants) – Conditions of detention – Alleged violation of Art. 5 (all applicants) – Unlawful detention – Did the applicants have the practical possibility of appealing to a higher court against the decisions ordering their detention pending trial, as required under Art. 5 § 4? – Alleged violation of Art. 8 – Refusal to the applicants visits by the second

			applicant in each application (their mothers)? – Did the applicants have at their disposal effective remedies in respect of their complaints under Articles 3, 5 and 8 of the Convention, as required under Article 13 of the Convention?
Moldova	26 Apr. 2010	Pascari no 53710/09 and Semionov no 59935/08	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment in police custody – Lack of an effective investigation into the alleged ill-treatment
Russia	30 Apr. 2010	Bashurov no 20975/06	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment or torture by police officers – Lack of an effective investigation into the alleged ill-treatment
Russia	30 Apr. 2010	Mysin no 6521/07	Alleged violation of Art. 3 – Conditions of detention at remand prison no. IZ-27/1 in Khabarovsk
Russia	30 Apr. 2010	Ryabov no 24841/06	Alleged violation of Art. 3 – Conditions of detention in Moscow remand prison IZ-77/3 – Alleged violation of Art. 5 § 1 – Unlawful detention
Russia	30 Apr. 2010	Sadretdinov no 17564/06	Alleged violation of Art. 3 – Conditions of detention in cell no. 4 in detention facility no. 77/5 in Moscow – The applicant's state of health incompatible with his detention – Lack of medical care in detention – Alleged violation of Art. 5 § 3 – Excessive length of pre-trial detention – Alleged violation of Art. 5 § 4 – Lack of an effective remedy to challenge the lawfulness of his pre-trial detention
Russia	30 Apr. 2010	Velichko no 19664/07	Alleged violation of Art. 3 – Conditions of detention at the temporary detention centre in Severomorsk – Alleged violation of Art. 5 § 1 – Unlawful detention - Art. 5 § 3 – Excessive length of detention – Alleged violation of Art. 5 § 4 – Were the proceedings concerning the supervisory review of the court order by which the applicant's release on bail was authorised in conformity with Art. 5 § 4 of the Convention? Alleged violation of Art. 6 § 1 – Excessive length of criminal proceedings
Russia	30 Apr. 2010	Zelenin no 21120/07	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment in police custody – Lack of an effective investigation – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 8 – Inspection in the applicant's flat and seizure of his belongings
Slovenia	27 Apr. 2010	Mole and 144 Others	Alleged violation of Art. 3 – Conditions of detention in Dob Prison – Alleged violation of Art. 8 § 1 – Interference with each applicant's right to respect for his private life – Alleged violation of Art. 13 – Lack of an effective remedy – Do these cases reveal the existence of a structural problem? Does this situation amount to "a practice incompatible with the Convention"?
the United Kingdom	29 Apr. 2010	Tawakoli no 61852/09	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Afghanistan on account of the fact that the applicant is a young Hazara Shia Muslim – Alleged violation of Art. 8 § 1 – Interference with the applicant's right to respect for private and family life if deportation order were to be enforced
Turkey	26 Apr. 2010	Fidanci no 17730/07	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment in police custody – Lack of an effective investigation – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – To what extent was the applicant's conviction based on statements allegedly extracted from him under duress and ill-treatment while in police custody? – Alleged violation of Art. 6 § 3 c) – Absence of a lawyer in police custody
Ukraine	29 Apr. 2010	Dzhaksyber genov no 12343/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Kazakhstan – Alleged violation of Art. 6 § 1 – If deported the applicant would not have a fair trial in his case – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 2 of Prot. 4 – Has there been a violation of the applicant's freedom to leave the territory of the respondent State? Was the restriction placed on the applicant's freedom to leave Ukraine in accordance with the law and necessary in terms of Art. 2 § 3 of Prot. 4? Was it open to the applicant to challenge the prosecutor's decision on the above restriction?

Communicated cases published on 24 May 2010 on the Court's Website and selected by the NHRS Unit

The batch of 24 May 2010 concerns the following States (some cases are however not selected in the table below): Austria, Belgium, Germany, Greece, Poland, Portugal, Romania, Russia, Serbia and Slovenia.

State	Date of communication	Case Title	Key Words of questions submitted to the parties
Poland	03 May 2010	Maciejewski no 34447/05	Alleged violation of Art. 10 – The applicant is a journalist who has frequently written about corruption, abuses and other irregularities in the justice system in the Lower Silesia region – The applicant's conviction for publishing an article in a series describing the theft of valuable hunting trophies which had belonged to a

			former bailiff of the Wrocław-Krzyki District Court
Russia	05 May 2010	Akhlyustin no 21200/05	Alleged violation of Art. 8 § 1 – Video surveillance of the applicant's office by investigative authorities – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Did the admission of the video records of the applicant's telephone conversations obtained through the video-surveillance of his office comply with the guarantees of Article 6 § 1?
Russia	05 May 2010	Apandiyev no 18454/04	Alleged violation of Art. 8 – Monitoring of the applicant's correspondence with the Court and failure to send the applicant's letter to the Court – Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by the police – Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 6 §§ 1 and 3 c) – lack of legal assistance before the appellate court
Russia	05 May 2010	Kovalevy no 4397/06	Alleged violation of Art. 3 (substantive and procedural) – Ill-treatment in police custody – Lack of an effective investigation
Russia	05 May 2010	Rogozin no 24649/06	Alleged violation of Art. 3 – Conditions of detention in facility no. IZ-66/1 in Yekaterinburg – Alleged violation of Art. 5 § 3 – Excessive length of pre-trial detention
Russia	05 May 2010	Shtogrin no 27151/07	Alleged violation of Art. 3 – Conditions of detention at remand prison no. IZ-28/1 in Blagoveshchensk – Alleged violation of Art. 5 § 3 – Excessive length of detention
Russia	05 May 2010	Yarosh no 22107/07	Alleged violation of Art. 3 – Conditions of detention at remand prison no. IZ-21/1 in Cheboksary
Russia	03 May 2010	Zabodalov no 1618/06	Alleged violation of Art. 3 – Conditions of detention in temporary detention facility of the Mytishchi Department of the Interior and in Volokolamsk IZ-50/2 detention facility – Alleged violation of Art. 5 § 3 – Excessive length of detention – Alleged violation of Art. 5 § 4 – Lack of an effective remedy to challenge the lawfulness of the detention

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

Visit to the French Senate (18.05.2010)

On 18 May 2010, President Costa visited Paris where he was welcomed by Gérard Larcher, President of the Senate of France. Patrick Titiun, Head of the Office of the President, also attended the meeting. Link to the President's pages

Visit to Paris (20.05.2010)

On 20 May 2010 President Costa took part in a working meeting with Robert Badinter, member of the Senate for Hauts-de-Seine, former Minister of Justice and former President of the Constitutional Council, on the subject of European Union accession to the European Convention on Human Rights. President Costa attended a debate at the *Cercle des Européens* chaired by Noëlle Lenoir, former Minister of European Affairs. During his visit to Paris President Costa was received by Minister of Justice Michèle Alliot-Marie. He was accompanied by Patrick Titiun, Head of his Private Office.

Part II : The execution of the judgments of the Court

A. New information

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

We invite you kindly to look at the agenda of meeting

- CM/Del/OJ/DH(2010)1086prelE / 19 March 2010

  1086th meeting (DH), 1-3 June 2010 - Preliminary list of items for consideration

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)

Study visit of the Constitutional Court of Turkey at the European Court of Human Rights (19-20.05.2010)

In the framework of a joint project on enhancing the role of the supreme judicial authorities in respect of European standards, a study visit of members and judges of the Turkish Constitutional Court was held at the Court of Human Rights in Strasbourg from 19 to 20 May 2010. Mr Rüchan IŞIK, member of the European Committee of Social Rights and Mr Régis BRILLAT, Head of the Department of the ESC participated in this visit. Programme

International Conference in Warsaw on extreme poverty and human rights (24-25.05.2010)

On the occasion of European Year of Combating Poverty and Social Exclusion, ATD Fourth World-Poland has organised an international conference entitled "Extreme poverty and human rights -- a challenge for Poland, a challenge for Europe". This conference was attended by Mr Régis BRILLAT, Head of the Department of the ESC. Programme; Mr Brillat's presentation *(French only)*

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

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

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

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

_*

C. European Commission against Racism and Intolerance (ECRI)

_*

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

Election of list of experts eligible to serve on the Advisory Committee (18.05.2010)

Azerbaijan: on 21 April 2010, Ms Arzu AGHDASI-SISAN was elected to the list of experts eligible to serve on the Advisory Committee in respect of Azerbaijan; **Bulgaria:** on 4 March 2010, Mrs Emilia DRUMEVA was elected to the list of experts eligible to serve on the Advisory Committee in respect of Bulgaria. **Croatia:** on 21 April 2010, Ms Milena KLAJNER was elected to the list of experts eligible to serve on the Advisory Committee in respect of Croatia; **"The former Yugoslav Republic of Macedonia":** on 21 April 2010, Ms Aleksandra BOJADZIEVA was elected to the list of experts eligible to serve on the Advisory Committee in respect of "the former Yugoslav Republic of Macedonia".

Finland (18.05.2010): The 3rd cycle visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities took place the week of 18-21 May 2010.

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

Moldova (18.05.2010): On 5 May 2010, the Committee of Ministers adopted Resolution CM/ResCMN(2010)6 on the implementation of the Framework Convention for the Protection of National Minorities by Moldova.

DH-MIN (18.05.2010): List of adopted decisions of the 11th Meeting.

E. Group of States against Corruption (GRECO)

Draft agenda of the 47th GRECO Plenary Meeting in Strasbourg (7-11.06.2010)

Link to the draft Agenda

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

_[*]

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

_[*]

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

Part IV: The inter-governmental work

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

10 May 2010

Cyprus denounced the European Convention for the Protection of Animals during International Transport (ETS No. 065), and ratified the European Convention for the Protection of Animals during International Transport (Revised) (ETS No. 193).

11 May 2010

Georgia signed the European Landscape Convention (ETS No. 176), and the European Convention for the protection of the Audiovisual Heritage (ETS No. 183).

17 May 2010

Greece ratified the European Landscape Convention (ETS No. 176).

21 May 2010

Romania signed the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers (ETS No. 63).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/Rec(2010)7E / 11 May 2010
Recommendation of the Committee of Ministers to member States on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (adopted by the Committee of Ministers on 11 May 2010 at the 120th Session)

C. Other news of the Committee of Ministers

"The former Yugoslav Republic of Macedonia" takes over from Switzerland as Chair of the Committee of Ministers (11.05.2010)
The Ministers for Foreign Affairs and State Secretaries for European Affairs of the Council of Europe's 47 member States met in Strasbourg on 11 May. Micheline Calmy-Rey, Head of Switzerland's Federal Department of Foreign Affairs chaired the session together with Antonio Miloshoski, Minister of Foreign Affairs of "the former Yugoslav Republic of Macedonia". The outgoing President presented a report on Switzerland's achievements over the past six months and the incoming Chair announced the priorities of his country's programme, which will focus on three thematic areas: strengthening human rights protection, fostering integration while respecting diversity and promoting youth participation. The follow-up to the Conference on the Future of the European Court of Human Rights (Interlaken, February 2010), the situation in Bosnia and Herzegovina, the conflict in Georgia, the relations with the European Union, and the reform process of the Organisation were among the highlights of the meeting. File "Session"; Photo gallery; Video of the press conference, part I; Video of the press conference, part II; Chairmanship website; More information on the Interlaken Conference

Council of Europe concerned about new death penalty sentences in Belarus (17.05.2010)

"These sentences add to the urgency to have a moratorium on capital punishment. The use of death penalty continues to be a key obstacle in the relations of Belarus with the Council of Europe," Secretary General Thorbjørn Jagland said on 17 May. The President of the Committee of Ministers, Antonio Miloshoski and Assembly President Mevlüt Çavusoglu called on the authorities of Belarus to commute the death sentences of Andrei Burdyko and Oleg Grishkovtsov who have just been sentenced to death by the Court of the Grodno region. Reaction of the President of the Committee of Ministers and of the Assembly President; Reaction of the Secretary General

Part V: The parliamentary work

.

A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe (adopted by the Standing Committee, acting on behalf of the Assembly on 21 May 2010)

Resolution 1737: Geothermal energy - a local answer to a hot topic?

Resolution 1736: Code of good practice in the field of political parties

Resolution 1735: The European civil aviation industry confronted with the global financial and economic crisis

Resolution 1734: Expenditure of the Parliamentary Assembly for the financial year 2011

Recommendation 1921: Gender budgeting as a tool for safeguarding women's health

Resolution 1732: Reinforcing the effectiveness of Council of Europe treaty law

Recommendation 1920: Reinforcing the effectiveness of Council of Europe treaty law

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

- *Countries*

Armenia needs a clear roadmap of reforms in order to consolidate democracy (14.05.2010)

PACE President, Mevlüt Çavusoglu, has called on the authorities of Armenia to draw on the recommendations of its *ad hoc* parliamentary committee and of PACE in relation to the 1-2 March 2008 events and to adopt and implement in due time a roadmap of reforms. Such clear determination is needed in order to restore public confidence, move towards reconciliation and consolidate the democratic process in the country. At the end of his visit to the country, PACE President encouraged the National Assembly to play to the full its role of parliamentary control, in particular when discussing the reports that will be submitted by its Committee on State and Legal Affairs, which is responsible for the monitoring of the implementation of the reforms needed in relation to the March 2008 events. The President praised the excellent co-operation with the Armenian delegation to PACE in that respect.

Amongst the most important reforms needed, the President stressed: the adoption of a new electoral code, up to the highest European standards, well ahead of the 2012 parliamentary elections; the reform of the police, including better education and a change in the mentality; the reforms needed to ensure the independence in the justice sector; the unrestricted implementation of the law on freedom of assembly; and the independence and pluralism of the media, in particular with regard to the tender on broadcasting licences that would be organised in July 2010.At the same time, the President considered it "unacceptable" that nobody has been held responsible in relation to the 10 deaths that occurred during the March 2008 events. He also stressed that the issue of persons detained in relation to the events of March 2008 is not fully resolved either. With regard to the Nagorno Karabakh issue, the President stressed that both Armenia and Azerbaijan have to abide by Parliamentary Assembly resolutions, in particular Resolution 1416 of 2005. The Assembly, for its part, has the duty to monitor how its recommendations are implemented by member states. He said he would continue consultations with the chairmen of the Armenian and Azeri delegations to PACE, separately and jointly, including also a representative of the opposition on each side, until a solution and a format are found which are satisfactory for both sides. Statement by Mevlüt Çavusoglu

PACE President congratulates Swiss Chairmanship (11.05.2010)

In his speech before the 11th of May session of the Committee of Ministers, the PACE President congratulated the Swiss Chairmanship for its efforts to improve the effectiveness of the European Court of Human Rights. He thanked the Swiss Foreign Minister, Mrs. Calmy-Rey, for having strengthened dialogue with PACE and said he was convinced that this kind of relations will be continued during the Chairmanship of "the former Yugoslav Republic of Macedonia" and its Foreign Minister, Mr. Miloshoski.

Topics raised during his speech included constitutional reform in Bosnia and Herzegovina, the situation in Albania, Moldova, the frozen conflicts in Nagorno- Karabakh as well as in Abkhazia and South Ossetia. With regard to Belarus, the President recalled that the Assembly had decided to put on hold its activities involving high-level contacts with Belarus. “However, in my opinion, we have a moral obligation towards the people of Belarus to be more present and engaged in the country,” he concluded. Address by PACE President

Ukraine: PACE President welcomes signing of Presidential Decree on Crimean Tatars (15.05.2010)

During his working visit to Crimea on 14-15 May 2010, PACE President Mevlüt Çavusoglu, welcomed the signing on 13 May 2010 by the President of Ukraine of the Decree No 615/2010 concerning additional measures to integrate the Tatars of Crimea. “I very much hope that this decree, aiming at improving the social-economic situation of the Crimean Tatars and enhancing their participation in the social, cultural and political life, will mark the beginning of a new and positive chapter in the situation of the Crimean Tatars in Ukraine”, declared PACE President. He called on all parties to intensify their dialogue and co-operation in good faith and mutual respect to solve the existing problems, in particular as regards education, language and land issues. The visit of PACE President took place on the eve of the commemoration, on 18 May, of the 66th anniversary of the deportation of the Crimean Tatar population by the Stalinist regime. In April 2000, PACE adopted Recommendation 1455 (2000) on repatriation and integration of the Tatars of Crimea. The commitment of Ukraine to develop its policy towards ethnic minorities on the basis of the Council of Europe standards and principles is being followed by the Parliamentary Assembly in the framework of its monitoring procedure with respect to Ukraine.

PACE President says he hopes that Montenegro maintains current reform dynamic (17.05.2010)

Addressing the Parliament of Montenegro on 17 May as part of his official visit to the country, the PACE President stressed that he got the impression that “Montenegro had come to peace with itself, in its independence gained almost to the day four years ago.” He welcomed the clear progress the country made including through the adoption of numerous Council of Europe standards and conventions, which will, he said, “assist Montenegro on its road to the European Union membership.” He underlined he expected the EU to make full use of the reports of PACE when preparing its opinion on the membership application, as was the case on many previous occasions. He encouraged the Montenegrin authorities to continue their close collaboration with the International Criminal Tribunal for the former Yugoslavia, especially with regard to the search and arrests of indictees who were still at large. Referring to the debate held three weeks ago during the last PACE session in Strasbourg, on the first report on ‘Honouring of obligations and commitments by Montenegro’, the President invited the members of Parliament to achieve the process of ratification of several important Council of Europe conventions and complete the adoption of some important laws, such as a new one governing the elections of the members of Parliament. “The mechanisms of parliamentary oversight over the activities of the Government, particularly with respect to the implementation of laws adopted by the Parliament, should also be strengthened,” he added. “The Assembly’s evaluation is overall positive,” the President said, “and we hope that Montenegro will maintain the current reform dynamic and complete the implementation of its commitments. Having visited your region often in recent times, I have the feeling that there is a readiness among many of the new countries of the former Yugoslavia to re-establish links with each other: a new openness to dialogue. I would welcome such a development,” he concluded. Speech by Mevlüt Çavusoglu

PACE President expresses support for Montenegro’s EU bid (19.05.2010)

On the last day of his official visit to Montenegro (16-19 May 2010), PACE President Mevlüt Çavusoglu met the Prime Minister of Montenegro Milo Dukanovic, when he reiterated his appreciation for the progress achieved by Montenegro in implementing the obligations and commitments it took on when it joined the Council of Europe in 2007. He also expressed his support for the country's efforts to join the European Union and Euro-Atlantic structures as fully and quickly as possible. “Besides this progress, which has already been achieved, I was very pleased that we fully agreed on the necessity to continue and intensify democratic reforms, in particular with a view to reinforcing both the institutional and budgetary position of the Parliament, strengthening the rule of law and further improving the participation of ethnic minorities in the political and social life of the country,” the President said. Finally, he encouraged the authorities to continue their fruitful co-operation with the Council of Europe’s Venice Commission, and stressed the need to adopt the new law on the elections to the Parliament as soon as possible.

Exchanges of views on violence against women and their place in political life in Azerbaijan (21.05.2010)

Alongside the 7th Council of Europe Conference of Ministers responsible for Equality between Women and Men (Baku, 24-25 May), a delegation of the Committee on Equal Opportunities for Women and Men of PACE headed by its Chairman, José Mendes Bota (Portugal, EPP/CD) held bilateral exchanges of views on women's place in political life and prevention of violence against women.

On Monday 24 May in the Parliament of Azerbaijan, the delegation met Ziyafa Asgarov, First Vice-President, Rabiyyat Aslanova, Chair of the Human Rights Committee and Ali Huseynov, Chair of the Legal Affairs Committee. Meetings with representatives of civil society and of the international community and a visit to a shelter for women victims of violence were also on the programme.

Moldova: PACE co-rapporteurs call for "constructive negotiations" (21.05.2010)

In an information note on the functioning of democratic institutions in Moldova, declassified by the Monitoring Committee on 19 May, the co-rapporteurs Josette Durrieu (France, SOC) and Egidijus Vareikis (Lithuania, EPP/CD) urged the majority coalition and the Communist Party to enter into constructive negotiations, showing the necessary political will to come to an agreement, on amendments to Article 78 of the constitution in order to facilitate the election of the President of the Republic, while fully availing themselves of the Venice Commission's expertise. They stressed that, whatever solution, it should comply with the present Constitution and be fully consistent with the principles of the Council of Europe and with the commitments Moldova has taken upon accession. Information note by the co-rapporteurs on their fact-finding visit to Chisinau

- *Themes*

PACE committee opposed to a general ban on wearing of the burqa (11.05.2010)

The veiling of women is often perceived as "a symbol of the subjugation of women to men" and could be a threat to womens' dignity and freedom, but there should be no general prohibition on wearing the burqa and the niqaub, a committee of PACE has declared. In a draft resolution adopted on 10 May at a meeting in Istanbul, PACE's Committee on Culture, Science and Education said legal restrictions may be justified "for security purposes, or where the public or professional functions of individuals require their religious neutrality, or that their face can be seen". But a general ban would deny women "who genuinely and freely desire to do so" their right to cover their face, the parliamentarians said, and may violate the right to freedom of religion guaranteed by the European Convention on Human Rights. European governments should instead seek to educate Muslim women on their rights, as well as their families and communities, and encourage them to take part in public and professional life.

The committee, which was approving a report on Islam, Islamism and Islamophobia prepared by Mogens Jensen (Denmark, SOC), also called on Switzerland to repeal as soon as possible its general ban on the construction of minarets. Report (provisional version)

Belarus: Council of Europe calls for two new death sentences to be commuted (17.05.2010)

Council of Europe Committee of Ministers Chair Antonio Miloshoski, and PACE President Mevlüt Çavusoglu called on the authorities of Belarus to commute the death sentences of Andrei Burdyko and Oleg Grishkovtsov who have just been sentenced to death by the Court of the Grodno region.

"We call on President Lukashenko to immediately commute the two death sentences, to declare forthwith a moratorium on the use of the death penalty, and to commute the sentences of all prisoners sentenced to death to terms of imprisonment as a firm step to bring the country closer to the Council of Europe. The death penalty has no place in the penal systems of today's societies. Willingness to institute an immediate moratorium on executions, and to abolish the death penalty, is a precondition for accession to the Organisation", they said. Belarus is not a member State of the Council of Europe. Belarusian parliament's special guest status to the Parliamentary Assembly was suspended on 13 January 1997, and Belarus' request for membership of the Council of Europe was frozen the following year.

Assisted voluntary return programmes for irregular migrants as an alternative to forced return (18.05.2010)

A report adopted on 18 May by the PACE Migration Committee in Paris, makes a plea for assisted voluntary return programmes for irregular migrants as a more humane, cheaper and mutually beneficial alternative to forced return or compulsory removal. "These programmes can succeed where forced returns fail, they can contribute to a sustainable return and help development in the country of origin. They can also provide valuable publicity in the countries of origin that irregualar migration is not a pathway to riches and happiness abroad," the rapporteur Özlem Türköne (Turkey, EPP/CD) stressed. According to her report, some 10 to 15 million irregular migrants live in Council of Europe member states today, with perhaps as many as 500 000 more entering or becoming irregular every year. In order to increase the number of voluntary returns, member states should open the programmes to a wider category of persons, for example, including not only failed asylum seekers, but all irregular migrants, and step up information campaigns for prospective returnees. The report also provides a short overview of the voluntary return programmes in the United Kingdom, the Netherlands and Switzerland.

Implementing the institutional improvements the Council of Europe needs (21.05.2010)

The Assembly elected the Council of Europe's new Secretary General, Thorbjorn Jagland, by a significant majority, with a clear mandate to pursue reform, and should now aim to assist him in implementing the institutional improvements he envisages, the Assembly said on 21 May. Given the current difficulties, 2011 must therefore be regarded as a year of transition, the parliamentarians believe. For this reason, the Assembly endorses the Secretary General's request that it cut its expenditure by about 2 per cent compared to last year, to cope with the current budget deficits in the context of the "zero real growth" fixed by the member States. The report prepared by Erol Aslan Cebeci (Turkey, EPP/CD) says the Assembly should remain vigilant regarding the choices and priorities proposed by the Secretary General and approved by the Committee of Ministers. In addition to its core activities, parliamentary assistance programmes will continue to be a priority for the Assembly. Modernising the Assembly's debating chamber with "video-wall" screens, an updated voting system, cameras for webcasting and better lighting will also be necessary. Report

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

A. Country work

Calais: Commissioner Hammarberg discusses migration and asylum policies with the French government (20.05.2010)

At the conclusion of a two-day visit to Calais and the surrounding area as well as to Paris, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, urged the French authorities to ensure the effective respect of the rights of migrants, and in particular their right to dignity. During his visit to Calais, Commissioner Hammarberg met the mayor, the prefect and representatives of local civil society. He also visited places where migrants live and held discussions with them. In Paris, the Commissioner met NGOs and national institutions for the protection of human rights. He also held a meeting with the Minister of immigration, integration, national identity and solidarity development, Eric Besson.

B. Thematic work

Adoption should only be agreed when in the child's best interests (12.05.2010)

What happened to Artyom Savelev was unacceptable. The boy, now eight years old, had been adopted from Russia. His new mother, in Tennessee in the United States, had found his behaviour difficult and put him, alone, on a plane to Moscow. Artyom's case caused wide publicity in Russia and the functioning of the rules on intercountry adoptions are now being reviewed at highest level. The result will have to be firmer protection of the principle that adoption is a child protection measure and that children's rights have to be fully protected and promoted throughout the adoption process.

Segregated schools marginalise Roma children - the decisions of the Strasbourg Court must be implemented (21.05.2010)

School segregation and substandard education is a reality for Roma children in many countries in Europe. The consequences of this are devastating, and leave virtually no opportunities for these children to escape poverty and marginalisation later on in life. Decisions by the European Court of Human Rights concerning cases in the Czech Republic, Greece and Croatia reaffirm the right of Roma children to non-discriminatory schooling – everywhere in Europe. The segregation of Roma children in education takes many forms. They may be assigned, without an objective reason, to schools designed for persons with intellectual disabilities; they may be taught in separate classes; or they may simply be denied enrolment.

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

_[*]

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