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# **HUMAN RIGHTS INFORMATION BULLETIN**

## **No. 52**

November 2000-February 2001

Directorate General of Human Rights  
April 2001

# Contents

<b>I. Convention activities</b> .....	2	<b>D. Framework Convention for the Protection of National Minorities</b> .....	30
<b>A. European Convention on Human Rights</b> .....	2	1. State of signatures and ratifications .....	30
1. State of signatures and ratifications .....	2	2. Reservations and declarations .....	30
2. Reservations and declarations .....	3	<b>E. European Convention on Transfrontier Television</b> .....	31
3. European Court of Human Rights .....	5	1. State of signatures and ratifications .....	31
<b>Special – “Training for Europe”</b>		2. Reservations and declarations .....	31
<b>By Jacob W.F. Sundberg</b> .....	10	<b>II. Other human rights activities of the Council of Europe</b> .....	32
4. Composition of the European Court of Human Rights .....	12	<b>A. Committee of Ministers</b> .....	32
5. The Committee of Ministers’ actions under the European Convention on Human Rights	13	<b>B. Parliamentary Assembly</b> .....	38
<b>B. European Social Charter</b> .....	21	<b>C. Directorate General of Human Rights</b> .....	40
1. State of signatures and ratifications .....	21	1. European Social Charter .....	40
2. Reservations and declarations .....	22	2. Framework Convention for the Protection of National Minorities .....	40
3. Activities of the supervisory bodies of the Charter .....	22	3. European Commission against Racism and Intolerance (ECRI) .....	41
<b>C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</b> .....	24	4. Equality between women and men .....	41
1. State of signatures and ratifications .....	24	5. Media .....	41
2. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) .....	25	6. Human rights awareness .....	42
3. Members of the CPT .....	29	7. Steering Committee for Human Rights (CDDH) .....	45
		<b>D. Human Rights Commissioner</b> .....	47
		<b>E. Human Rights Institutes</b> .....	49
		<b>III. Publications</b> .....	50

The Council of Europe has its permanent headquarters in Strasbourg (France). It operates through a variety of bodies:

- The governing body is the Committee of Ministers, composed of the Ministers of Foreign Affairs of the 43 member states or, on a daily basis, their permanent representatives in Strasbourg.
- The other statutory organ is the Parliamentary Assembly, comprising 602 members from the 43 national parliaments, as well as special guests from certain European non-member states.
- The Congress of Local and Regional Authorities of Europe, also composed of 602 members, represents the entities of local and regional self-government within the member states.
- The European Court of Human Rights, comprising a resident judge from each contracting Party, is the judicial body competent to adjudicate complaints brought against a state by individuals, associations or other contracting states on grounds of violation of the European Convention on Human Rights.

These bodies and the many intergovernmental committees are served by a multinational European Secretariat under the authority of a Secretary General elected by the Parliamentary Assembly for a term of five years.

# **Human rights information bulletin**

## **No. 52**

*an update on human rights activities  
within the Council of Europe*

**November 2000-February 2001**

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**April 2001**

# I. Convention activities

## A. European Convention on Human Rights

### I. State of signatures and ratifications of the Convention and its protocols at 28 February 2001

Member states	ECHR		Protocol No. 1		Protocol No. 4	
	Signed	Ratified	Signed	Ratified	Signed	Ratified
Albania	13/07/95	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96
Andorra	10/11/94	22/01/96	—	—	—	—
Armenia	<b>25/01/01</b>	—	<b>25/01/01</b>	—	<b>25/01/01</b>	—
Austria	13/12/57	03/09/58	13/12/57	03/09/58	16/09/63	18/09/69
Azerbaijan	<b>25/01/01</b>	—	<b>25/01/01</b>	—	<b>25/01/01</b>	—
Belgium	04/11/50	14/06/55	20/03/52	14/06/55	16/09/63	21/09/70
Bulgaria	07/05/92	07/09/92	07/05/92	07/09/92	03/11/93	<b>04/11/00</b>
Croatia	06/11/96	05/11/97	06/11/96	05/11/97	06/11/96	05/11/97
Cyprus	16/12/61	06/10/62	16/12/61	06/10/62	06/10/88	03/10/89
Czech Republic*	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92
Denmark	04/11/50	13/04/53	20/03/52	13/04/53	16/09/63	30/09/64
Estonia	14/05/93	16/04/96	14/05/93	16/04/96	14/05/93	16/04/96
Finland	05/05/89	10/05/90	05/05/89	10/05/90	05/05/89	10/05/90
France	04/11/50	03/05/74	20/03/52	03/05/74	22/10/73	03/05/74
Georgia	27/04/99	20/05/99	17/06/99	—	17/06/99	13/04/00
Germany	04/11/50	05/12/52	20/03/52	13/02/57	16/09/63	01/06/68
Greece	28/11/50	28/11/74	20/03/52	28/11/74	—	—
Hungary	06/11/90	05/11/92	06/11/90	05/11/92	06/11/90	05/11/92
Iceland	04/11/50	29/06/53	20/03/52	29/06/53	16/11/67	16/11/67
Ireland	04/11/50	25/02/53	20/03/52	25/02/53	16/09/63	29/10/68
Italy	04/11/50	26/10/55	20/03/52	26/10/55	16/09/63	27/05/82
Latvia	10/02/95	27/06/97	21/03/97	27/06/97	21/03/97	27/06/97
Liechtenstein	23/11/78	08/09/82	07/05/87	14/11/95	—	—
Lithuania	14/05/93	20/06/95	14/05/93	24/05/96	14/05/93	20/06/95
Luxembourg	04/11/50	03/09/53	20/03/52	03/09/53	16/09/63	02/05/68
Malta	12/12/66	23/01/67	12/12/66	23/01/67	—	—
Moldova	13/07/95	12/09/97	02/05/96	12/09/97	02/05/96	12/09/97
Netherlands	04/11/50	31/08/54	20/03/52	31/08/54	15/11/63	23/06/82
Norway	04/11/50	15/01/52	20/03/52	18/12/52	16/09/63	12/06/64
Poland	26/11/91	19/01/93	14/09/92	10/10/94	14/09/92	10/10/94
Portugal	22/09/76	09/11/78	22/09/76	09/11/78	27/04/78	09/11/78
Romania	07/10/93	20/06/94	04/11/93	20/06/94	04/11/93	20/06/94
Russia	28/02/96	05/05/98	28/02/96	05/05/98	28/02/96	05/05/98
San Marino	16/11/88	22/03/89	01/03/89	22/03/89	01/03/89	22/03/89
Slovakia*	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92
Slovenia	14/05/93	28/06/94	14/05/93	28/06/94	14/05/93	28/06/94
Spain	24/11/77	04/10/79	23/02/78	27/11/90	23/02/78	—
Sweden	28/11/50	04/02/52	20/03/52	22/06/53	16/09/63	13/06/64
Switzerland	21/12/72	28/11/74	19/05/76	—	—	—
“The former Yugoslav Republic of Macedonia”	09/11/95	10/04/97	14/06/96	10/04/97	14/06/96	10/04/97
Turkey	04/11/50	18/05/54	20/03/52	18/05/54	19/10/92	—
Ukraine	09/11/95	11/09/97	19/12/96	11/09/97	19/12/96	11/09/97
United Kingdom	04/11/50	08/03/51	20/03/52	03/11/52	16/09/63	—

Updates to the table of signatures and ratifications are available on the Internet at the site: <http://conventions.coe.int/>.

- \* The dates of signature and ratification given for the Czech Republic and Slovakia are those, respectively, of the signature and ratification by the Czech and Slovak Federal Republic, by which the former two states consider themselves bound.

Protocol No. 6		Protocol No. 7		Protocol No. 12	
Signed	Ratified	Signed	Ratified	Signed	Ratified
04/04/00	21/09/00	02/10/96	02/10/96	—	—
22/01/96	22/01/96	—	—	—	—
<b>25/01/01</b>	—	<b>25/01/01</b>	—	—	—
28/04/83	05/01/84	19/03/85	14/05/86	<b>04/11/00</b>	—
<b>25/01/01</b>	—	<b>25/01/01</b>	—	—	—
28/04/83	10/12/98	—	—	<b>04/11/00</b>	—
07/05/99	29/09/99	03/11/93	<b>04/11/00</b>	—	—
06/11/96	05/11/97	06/11/96	05/11/97	—	—
07/05/99	19/01/00	02/12/99	15/09/00	<b>04/11/00</b>	—
21/02/91	18/03/92	21/02/91	18/03/92	<b>04/11/00</b>	—
28/04/83	01/12/83	22/11/84	18/08/88	—	—
14/05/93	17/04/98	14/05/93	16/04/96	<b>04/11/00</b>	—
05/05/89	10/05/90	05/05/89	10/05/90	<b>04/11/00</b>	—
28/04/83	17/02/86	22/11/84	17/02/86	—	—
17/06/99	13/04/00	17/06/99	13/04/00	<b>04/11/00</b>	—
28/04/83	05/07/89	19/03/85	—	<b>04/11/00</b>	—
02/05/83	08/09/98	22/11/84	29/10/87	<b>04/11/00</b>	—
06/11/90	05/11/92	06/11/90	05/11/92	<b>04/11/00</b>	—
24/04/85	22/05/87	19/03/85	22/05/87	<b>04/11/00</b>	—
24/06/94	24/06/94	11/12/84	—	<b>04/11/00</b>	—
21/10/83	29/12/88	22/11/84	07/11/91	<b>04/11/00</b>	—
26/06/98	07/05/99	21/03/97	27/06/97	<b>04/11/00</b>	—
15/11/90	15/11/90	—	—	<b>04/11/00</b>	—
18/01/99	08/07/99	14/05/93	20/06/95	—	—
28/04/83	19/02/85	22/11/84	19/04/89	<b>04/11/00</b>	—
26/03/91	26/03/91	—	—	—	—
02/05/96	12/09/97	02/05/96	12/09/97	<b>04/11/00</b>	—
23/06/82	28/04/83	25/04/86	22/11/84	<b>04/11/00</b>	—
28/04/83	25/10/88	22/11/84	25/10/88	—	—
18/11/99	30/10/00	14/09/92	—	—	—
28/04/83	02/10/86	22/11/84	—	<b>04/11/00</b>	—
15/12/93	20/06/94	04/11/93	20/06/94	<b>04/11/00</b>	—
16/04/97	—	28/02/96	05/05/98	<b>04/11/00</b>	—
01/03/89	22/03/89	01/03/89	22/03/89	<b>04/11/00</b>	—
21/02/91	18/03/92	21/02/91	18/03/92	<b>04/11/00</b>	—
14/05/93	28/06/94	14/05/93	28/06/94	—	—
28/04/83	14/01/85	22/11/84	—	—	—
28/04/83	09/02/84	22/11/84	08/11/85	—	—
28/04/83	13/10/87	28/02/86	24/02/88	—	—
14/06/96	10/04/97	14/06/96	10/04/97	<b>04/11/00</b>	—
—	—	14/03/85	—	—	—
05/05/97	04/04/00	19/12/96	11/09/97	<b>04/11/00</b>	—
27/01/99	20/05/99	—	—	—	—

## 2. Reservations and declarations

### European Convention on Human Rights

#### *United Kingdom*

*Withdrawal of derogation contained in a Note Verbale from the Permanent Representative of the United Kingdom, dated 19 February 2001, handed to the Secretary General on 19 February 2001 – Or. Engl.*

The United Kingdom Permanent Representative to the Council of Europe presents his compliments to the Secretary General of the Council, and has the honour to refer to Article 15, paragraph 3, of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, as well as to the notification made by the then United Kingdom Permanent Representative to the then Secretary General under Article 15, paragraph 3, and dated 23 December 1988 and 23 March 1989.

The provisions referred to in the March 1989 notification, namely section 14 and paragraph 6 of Schedule 5 to the Prevention of Terrorism Act 1989, have been replaced by section 41 and paragraph 6 of Schedule 7 to the Terrorism Act 2000. Under section 41 a person who has been arrested by a constable upon reasonable suspicion of being guilty of an offence under Sections, 11, 12, 15 to 18, 54 and 56 to 63 of the Act, or of being concerned in the commission, preparation or instigation of acts of terrorism, can be detained by virtue of the arrest for up to 48 hours and thereafter, where a judicial authority extends the detention period, for up to a further five days. The judicial authority will extend detention only to the point strictly necessary for the completion of investigations and enquiries or to preserve relevant evidence in order to decide whether criminal proceedings should be instituted. Under paragraph 6 of Schedule 7 to the Act a person who is being examined at a port or in a border area by an examining officer for the purpose of determining whether he is a person who is or has been involved in the commission, preparation or instigation of acts of terrorism, or for the purpose of determining whether his presence in the border area is connected with his entering or leaving Northern Ireland, may be detained pending the conclusion of his examination. The period of his detention under this power shall not exceed nine hours. No extension of detention is possible.

In the light of these developments, the measures referred to in the notifications dated 23 December 1988 and 23 March 1989 will cease to operate as of Monday, 26 February 2001. Accordingly, the two notifications are withdrawn as from that date, and the Government of the United Kingdom confirms that the provisions of the Convention will again be executed as from then.

However, this withdrawal of the derogation only applies to the United Kingdom of Great Britain and Northern Ireland. It is not yet possible to withdraw the derogation in respect of the Crown Dependencies, that is the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man. The Crown Dependencies are actively considering enacting or amending their current Prevention of Terrorism legislation to reflect the changes in the United Kingdom legislation made under the Terrorism Act 2000. (The letter from the Permanent Representative of 12 November 1998 to the previous Secretary General explains the position in relation to the legislation in the Crown Dependencies.)

*On the withdrawal of the derogation, Walter Schwimmer, Council of Europe Secretary General, welcomed the speed of the United Kingdom's action:*

*"The fact that the derogation will be withdrawn simultaneously with the entry into force of the new law is a sign of the United Kingdom's willingness to work hand in hand with the Council of Europe. It shows the United Kingdom's commitment to upholding human rights and respecting international standards."*

## Twenty-five states sign up to improve protection against discrimination

Protocol No.12 to the Convention – prohibiting all forms of discrimination – was opened for signature in Rome on 4 November 2000 on the occasion of the Convention's 50th anniversary. In the presence of ministers from the 41 Council of Europe member states and nine non-member states, it was signed by representatives of 25 of the Council's member states (see table on previous page). It will come into force when ten states have ratified it.

The Convention's present provision on discrimination (Article 14) is limited in scope, as it prohibits discrimination only where rights recognised by the Convention are affected. The new protocol removes that restriction and provides that no one may be discriminated against by any public authority on any ground.

Welcoming the adoption of Protocol No. 12 as a "sign of the times", Council of Europe Secretary General Walter Schwimmer said

that the protocol was a major step in the fight against racism and intolerance. "We should not forget that the opening for signature takes place at a time of worrying political developments," he said.

"In today's Europe the fight against racism and intolerance is an urgent necessity. But the protocol is not only an important legal tool for combating racism and intolerance. It will also help furthering equality between women and men and eradicating other forms of discrimination."

### 3. European Court of Human Rights

*Between 1 November 2000 and 28 February 2001, the Court dealt with 5 550 (5 613) cases:*

- 1 934 (1 945) applications declared inadmissible
- 50 applications struck off
- 396 (409) applications declared admissible
- 519 (529) applications communicated to governments
- 321 (342) judgments delivered

A judgment or decision may concern more than one application. The number of applications is given in brackets.

*Owing to the large number of judgments delivered during this period, only those delivered by the Grand Chamber are summarised in this part. The summaries are based on information provided by the Registry of the European Court of Human Rights. They are not binding on the supervisory organs of the European Convention on Human Rights.*

*The list of the judgments adopted and these of the key decisions together with the full text, can be found on the Internet at <http://www.echr.coe.int/>.*

#### I. Judgments

##### **Former King of Greece and others v. Greece**

Judgment of 23 November 2000

##### **Facts**

The applicants were the former King of Greece, Constantinos II, his sister, Princess Irene, and aunt, Princess Ekaterini. They produced title deeds to three estates. Firstly, the former King claimed that he was the owner of the Tatoi Estate, which had apparently been formed during King George I's reign through successive purchases of land from private individuals, notably in 1872 and 1891, coupled with the grant by the Greek State of a licence over Bafi Forest in 1877 in return for financial consideration. The estate subsequently devolved to members of the royal family until 1924, when the Greek State, now a Republic, expropriated Tatoi and recovered title to the Bafi property without paying compensation. In 1936, after his restoration to the throne, King George II recovered full ownership and possession of Tatoi by statute, with the exception of a parcel that had in the meantime been allocated to refugees. The title to the estate of George II's successor, King Paul, was confirmed by a legislative decree of 1949. In 1964 the property passed to King Paul's son and heir, Constantinos II, by virtue of a holograph will. The former King, Princess Irene and Princess Ekaterini also claimed ownership of parts of the Polydendri estate, which appeared to have been purchased from a private individual in 1906 by Constantinos I, before devolving by succession. There were also a number of private dealings in the land. As

regards the Mon Repos Estate on the Island of Corfu, the title originated from a gift in 1864 of an estate by the Provincial Council of Corfu to King George I, who subsequently enlarged it through purchases from private individuals. After his death Mon Repos was inherited by Prince Andreas, who was dispossessed by an expropriation order made in 1923 before recovering full ownership by virtue of a 1937 statute. After a series of transfers the first applicant acquired full ownership of Mon Repos in 1981. During the military dictatorship from 1967 to July 1974 all the royal family's movable and immovable property was confiscated and title to it passed to the State by virtue of Legislative-Decree no. 225/1973. The royal family did not claim the stipulated compensation. After the return to democratic rule a transitional system was set up by Legislative Decree no. 72/1974, which provided that the royal family's property was to be administered by a committee pending final determination of its status. By a referendum in December 1974 the population voted in favour of a parliamentary republic and in 1975 the present Constitution came into force. Following an initial agreement relating to the property of the royal family, which was never executed, the former King and the conservative "New Democracy" Party reached a new agreement in 1992 whereby the King transferred part of Tatoi to the Greek State and donated parcels from that estate to two foundations, the royal family's tax liabilities were written off, the Greek State discontinued all legal proceedings connected to those liabilities and the royal family agreed to pay inheritance tax, income tax and capital taxes. The agreement was set out in a notarial deed that was given force of law by Law no. 2086/1992. The report on the draft bill stated that Legislative Decree no. 225/1973 had been repealed by Legislative Decree no. 72/1974 and that the property had reverted to its former ownership status. In 1993 a government under the leadership of Mr Papandreou returned to power and introduced bill no. 2215/1994 which was passed by Parliament on 16 April 1994 and became law in May 1994. It was entitled "Settlement of matters pertaining to the expropriated property of the deposed royal family of Greece", and repealed Law no. 2086/1992, stating that any dealings carried out pursuant to it, including the donations to the two foundations, were void. The Greek State became the owner of the three applicants' movable and immovable property and Legislative Decree no. 225/1973 was deemed to have remained in force. The applicants brought several sets of proceedings in the Greek courts concerning their property rights and challenged the constitutionality of Law no. 2215/1994. In a judgment of 25 June 1997 the Special Supreme Court gave a ruling on the royal property. It held that its devolution

to the State had become irrevocable as a result of the referendum and that Article 1 of Law no. 2086/1992, which provided by implication that the former royal property would continue to belong to the monarch, was likewise unconstitutional. It concluded that the Law of 1994 was therefore constitutional. The applicants complained that Law no. 2215/1994 infringed their right to enjoyment of their possessions.

## Law

### Article 1 of Protocol No. 1

As to whether there was a “possession”, the Court was unable to agree that the members of the royal family had no private property in Greece. At least part of the royal property had been purchased by the applicants’ ancestors and subsequently been the subject of several transfers within the royal family or to third parties in accordance with Greek civil law. Moreover, before Law no. 2215/1994 had come into force, the Greek State had on several occasions treated the members of the royal family – and among them the first applicant – as the private owners of the estates in question, for example in 1924 and 1926 with regard to the Tatoi Estate, in 1937 with regard to Mon Repos, between 1974 and 1996 when the applicants had paid tax in respect of their properties, and in relation to the 1992 agreement. All those acts could only have been performed on the basis that the applicants and their ancestors were the owners of the property in question, otherwise they would have served no useful purpose. Finally, special rules which applied to the royal property, such as rules on tax exemption, did not *per se* mean that those properties could not be essentially private in character. It was not unknown for Heads of State to enjoy tax immunity as far as their private property was concerned and the Government had failed to provide any documentation showing that the royal property was State property. There was thus a contradiction in the Government’s attitude to the relevant properties. They had repeatedly treated them as private property and had not produced a set of rules governing their status. Therefore, even if the royal property had been governed by a special set of rules, the Court could not conclude that it had a *sui generis* and quasi-public character such that it had never belonged to the former royal family. The relevant properties had been owned by the applicants as private persons rather than in their capacity as members of the royal family and constituted “possessions” for the purposes of Article 1 of Protocol No. 1, which was therefore applicable.

The Court had accordingly to identify the applicants’ possessions. In 1936 a law had vested full ownership of Tatoi in King George II, with the exception of a parcel that had in the meantime been allocated to refugees. Therefore, with the exception of that parcel, the Tatoi Estate constituted part of the property which had had to be expropriated in 1994. The Court could not agree with the Government that, as a result of the 1992 gifts and sale, the applicants had ownership

rights over less than 10% of Tatoi, since Law no. 2215/1994, the legal effects of which had to be taken into account if inconsistency and infringement of the *lex posterior derogat anteriori* principle were to be avoided, had repealed that agreement and declared acts carried out pursuant to it void. Before the entry into force of Law no. 2215/1994 the Tatoi estate, with the exception of a parcel expropriated in 1924 and allocated to refugees, had belonged to the first applicant. The Court noted that the Government had not argued that the Polydendri estate had a special status and there was no evidence to suggest that the title deeds produced by the applicants were inaccurate. It therefore considered that before the entry into force of Law no. 2215/1994 the Polydendri estate had belonged to the three applicants. The original title to the Mon Repos estate had taken the form of a donation, which was a valid manner of acquiring property rights. Mon Repos had subsequently been enlarged by purchases from private individuals and following a chain of transfers, full ownership of it had devolved to the first applicant who therefore had to be regarded as its owner before the entry into force of Law no. 2215/1994.

There had therefore been an interference in 1994 with the applicants’ right to the peaceful enjoyment of their possessions and that interference amounted to a “deprivation” of possessions within the meaning of the second sentence of the first paragraph of Article 1 of Protocol No. 1.

Unlike the Government, which had relied on both Legislative Decree no. 225/1973 and Law no. 2215/1994, the Court considered that Law no. 2215/1994 constituted the sole legal basis for the interference complained of. The law upon which the interference was based had to be in accordance with the internal law including the relevant provisions of the Constitution, and having regard to the Special Supreme Court’s judgment, the Court could not find that Law no. 2215/1994 was unconstitutional. The deprivation was therefore “provided for by law”.

As to the aim pursued by that deprivation of possessions, namely “the public interest”, in addition to the fact that the national authorities were better placed to determine what was in the public interest, the wide margin of appreciation available to the legislature in implementing social and economic policies had necessarily, if not *a fortiori*, also to be available for changes in a country’s constitutional system as fundamental as the transition from a monarchy to a republic. There was no doubt that the Greek State had had to resolve an issue which it considered to be prejudicial for its status as a republic. While the fact that the constitutional transition from monarchy to republic had taken place almost twenty years before the enactment of the contested law might occasion doubt as to the reasons for the measures, it could not suffice to deprive the overall objective of Law no. 2215/1994 of its legitimacy as being “in the public interest”.



As regards the proportionality of the interference, it had to be noted that there was no provision in Law no. 2215/1994 for the payment of compensation. Having regard to the fact that it had already been established that the interference in question was lawful and not arbitrary, the lack of compensation did not make the taking of the applicants' property *eo ipso* wrongful and it therefore had to be determined whether, in the context of a lawful expropriation, the applicants had had to bear a disproportionate and excessive burden. The Court considered that the Government had failed to give a convincing explanation as to why the applicants had not been awarded any compensation and, while it accepted that the Greek State could have considered in good faith that exceptional circumstances justified the absence of compensation, that assessment had not been objectively substantiated. At least part of the expropriated property had been purchased by the applicants' predecessors in title with their own funds and there had been provision for compensation on the previous expropriation of the property in 1973. The fact that that provision had been made could have given rise to a legitimate expectation in 1994 that compensation would be awarded. Legislative Decree no. 225/1973, on which the Government relied on that issue, could not be regarded as fulfilling that expectation since Law no. 2215/1994 was the sole legal basis for the interference. Neither the privileges which had been afforded to the royal family in the past nor the tax exemptions and the writing off of all the tax liabilities bore any direct relevance to the issue of the proportionality of the interference. Consequently, the fact that the applicants had received no compensation had upset the fair balance between the protection of property and the requirements of the public interest to the applicants' detriment.

**Conclusion: violation (fifteen votes to two)**

#### **Article 14 taken together with Article 1 of Protocol No. 1**

In view of the aforementioned finding of a violation, the Court did not consider it necessary to examine the allegation of a breach of those articles taken together.

#### **Article 41**

The question of the application of Article 41 was not ready for decision and was therefore reserved.

#### **Varey v. the United Kingdom**

Judgment of 21 December 2000

The applicants are gypsies who were refused planning permission to station a residential caravan on land which they had acquired. The first applicant was convicted of failing to comply with an enforcement notice and the applicants eventually had to move elsewhere.

The parties have reached a friendly settlement providing for payment to the applicants of compensation of £60,000 (GBP) plus costs.

#### **Chapman, Coster, Beard, Lee and Jane Smith v. the United Kingdom**

Judgment of 18 January 2001

#### **Principal facts**

The cases concern applications brought by applicants from five British gypsy families: Sally Chapman, born in 1954 and resident in Hertfordshire; Thomas and Jessica Coster, born in 1962 and 1964 and resident in Kent; John and Catherine Beard, born in 1935 and 1937 and currently with no fixed address for their caravans; Jane Smith, born in 1955 and resident in Surrey; and, Thomas Lee, born in 1943 and resident in Kent.

Sally Chapman bought land in 1985 in the Three Rivers District in Hertfordshire on which to station her caravan, without obtaining prior planning permission. She was refused planning permission for her caravan, and also permission to build a bungalow. Her land was in a Green Belt area. It was acknowledged in the planning proceedings that there was no official site for gypsies in the area and the time for compliance with the enforcement order was for that reason extended. She was fined for failure to comply and left her land for eight months, returning due to an alleged lack of other alternatives and having spent the time being moved on from one illegal encampment to another. She still lives on her land with her husband and father, who is over 90 years old and suffering from senile dementia.

Thomas and Jessica Coster, husband and wife, allege that they were forced, through lack of alternatives, to live in conventional housing from 1983 to 1987. In 1988, having bought some land near Maidstone in Kent, they moved on to it in caravans. Their applications for planning permission were dismissed twice on grounds that the development was a significant intrusion into an attractive rural area. They were prosecuted and fined in 1989, 1990 and 1992. Following injunction proceedings in 1992, they left their land but returned after a short while. They were fined again in 1994 and faced injunction proceedings in 1996 which were substituted by enforcement proceedings for removal under s. 178 of the Town and Country Planning Act 1990, following which they allege that they had no alternative but to accept council housing accommodation in 1997.

John and Catherine Beard, husband and wife, stationed caravans on land bought by them in Lancashire. They were twice refused planning permission on grounds of impact on visual amenity and highway safety considerations. They were prosecuted four times between 1991 and 1995 and faced injunction proceedings in 1996, which led to John Beard receiving a suspended committal to prison for three months for failure to remove the caravans. They left their land as a result and have since been without a fixed address for their caravans.

Thomas Lee and his family stationed caravans on land bought by them in a Special Landscape Area in

Kent. Planning permission was refused as the planning inspector found his site was highly visible and detrimental to the landscape. While there are official sites in the area, he complains that these are not fit for human habitation as they are located on rubbish sites or on old sewage beds. Permission was however given for use of a caravan for agricultural purposes on land near to his and permission has been given for a large residential development 600 yards from his land.

Jane Smith and her family bought land for their caravans in a Green Belt area in Surrey and were refused planning permission on the grounds that their occupation harmed a sensitive area of the countryside. Her application for a bungalow was refused, to prevent diminishing the rural character of the countryside. Injunction proceedings were taken against her in 1994, following which the family applied to be housed as "homeless". She complains that the accommodation offered so far has either been in flats or in urban areas or has concerned land unsuitable for habitation due to pollution. She remains on her land under threat of removal and committal to prison for contempt.

### **Complaints**

The applicants complain that measures taken against them to enforce planning measures concerning the occupation of their own land in their caravans violated Articles 8 and 14 of the Convention.

All the applicants, save the Beard family, argue that these measures also interfered with their peaceful enjoyment of their land, contrary to Article 1 of Protocol No. 1.

Sally Chapman and Jane Smith further complain under Article 6 of the lack of effective access to court to appeal against the planning and enforcement decisions of the authorities and the Coster family, Jane Smith and Thomas Lee also invoke Article 2 of Protocol No. 1, alleging that the enforcement measures deprived their children or grandchildren of an education.

### **Decision of the Court**

#### **Article 8**

In all five cases, the Court considered that the applicants' occupation of their caravans was an integral part of their ethnic identity as gypsies and that the enforcement measures and planning decisions in each case interfered with the applicants' rights to respect for their private and family life.

However, the Court found that the measures were "in accordance with the law" and pursued the legitimate aim of protecting the "rights of others" through preservation of the environment.

As regards the necessity of the measures taken in pursuit of that legitimate aim, the Court considered that a wide margin of appreciation had to be accorded to the domestic authorities who were far better placed to reach decisions concerning the planning considerations attaching to a particular site. In these cases, the

Court found that the planning inspectors had identified strong environmental objections to the applicants' use of their land which outweighed the applicants' individual interests.

The Court also noted that gypsies were at liberty to camp on any caravan site with planning permission. Although there were insufficient sites which gypsies found acceptable and affordable and on which they could lawfully place their caravans, the Court was not persuaded that there were no alternatives available to the applicants besides occupying land without planning permission, in some cases on a Green Belt or Special Landscape area.

The Court did not accept that, because statistically the number of gypsies was greater than the number of places available in authorised gypsy sites, decisions not to allow the applicants to occupy land where they wished to install their caravans constituted a violation of Article 8. Neither was the Court convinced that Article 8 could be interpreted to impose on the United Kingdom, as on all the other Contracting States to the European Convention on Human Rights, an obligation to make available to the gypsy community an adequate number of suitably equipped sites. Article 8 did not give a right to be provided with a home, nor did any of the Court's jurisprudence acknowledge such a right. Whether the State provided funds to enable everyone to have a home was a matter for political not judicial decision.

**Conclusion: no violation**

#### **Article 14**

In all five cases, the Court had regard to its findings above under Article 8 that any interference with the applicant's rights was proportionate to the legitimate aim of preservation of the environment.

**Conclusion: no violation**

#### **Article 1 of Protocol No. 1**

For the same reasons given under Article 8, in Chapman, Coster, Lee and Jane Smith, the Court found that any interference with the applicants' peaceful enjoyment of their property was proportionate and struck a fair balance in compliance with the requirements of Article 1 of Protocol No. 1.

**Conclusion: no violation**

#### **Article 6**

In Chapman and Jane Smith the Court found that the scope of review of the High Court, which was available to the applicants after a public procedure before an inspector, was sufficient to comply with the requirement under Article 6.1 of access to an independent tribunal. It enabled a decision to be challenged on the basis that it was perverse, irrational, had no basis on the evidence or had been made with reference to irrelevant factors or without regard to relevant factors,

which provided adequate judicial control of the administrative decisions in issue.

**Conclusion: no violation**

**Article 2 of Protocol No. 1**

In *Coster, Lee and Jane Smith*, the Court found that the applicants had failed to substantiate their complaints that their children or grandchildren were effectively denied the right to education as a result of the planning measures complained of.

In *Coster*, the Court noted that their eldest children, now over 16 years of age, had left school and gone out to work and their youngest children were attending the school near their home. In *Lee*, the applicant's grandchildren have been attending school near their home on the applicant's land and, in *Jane Smith*, the applicant had remained on her land since 1993.

**Conclusion: no violation**

Judges Pastor Ridruejo, Bonello, Tulkens, Strá•nická, Lorenzen, Fischbach and Casadevall expressed a joint dissenting opinion in each case, which are annexed to the judgments. Judge Bonello added a further separate opinion.

**Brumarescu v. Romania**

Judgment of 23 January 2001

**Summary of the facts**

The case concerned an application brought by a Romanian national, Dan Brumarescu, who was born in 1926 and lives in Bucharest. Mr Brumarescu is retired.

In 1950 the applicant's parents' house in Bucharest was nationalised without payment of compensation. On 9 December 1993, in proceedings brought by the applicant, the Bucharest Court of First Instance held that the nationalisation had been unlawful. As

there was no appeal, the judgment became final and enforceable. In 1994 the applicant regained possession of the house. On an unknown date, the Procurator-General of Romania lodged an application to have the judgment of 9 December 1993 quashed. In a decision of 1 March 1995 the Supreme Court of Justice quashed the judgment of 9 December 1993 on the ground that the house had passed into State ownership by virtue of a legislative instrument and that the manner in which such an instrument was applied could not be reviewed by the courts, that being a matter for the executive or the legislature.

The applicant complained that his right of access to a court, as secured by Article 6.1 of the Convention, had been violated in that the Supreme Court of Justice had held that the lower courts had no jurisdiction to deal with a claim for recovery of possession such as his. He also complained that the Supreme Court of Justice's judgment had deprived him of one of his possessions, contrary to Article 1 of Protocol No. 1.

**Decision of the Court**

The Court held unanimously that the respondent State was to return to the applicant, within six months, the house in issue and the land on which it was situated, except for the flat and the corresponding part of the land already returned. It further held that, failing such restitution, the respondent State was to pay the applicant 181,400 United States dollars (USD) for pecuniary damage. It also awarded the applicant USD 15,000 for non-pecuniary damage and USD 2,450, less 3,900 French francs received by way of legal aid, for legal costs and expenses. Those sums were to be converted into Romanian lei at the rate applicable on the date of settlement.

In its principal judgment, delivered on 28 October 1999, the Court had found a violation of Article 6 of the Convention and Article of Protocol No. 1 and had not decided the question of just satisfaction.

# Training for Europe

*X v. the Calmar Union* is a case that does not appear in the Court's case-law. The Calmar Union is, however, frequently required to defend itself against alleged violations of human rights – in the Sporrong-Lönnroth Moot Court Competition.

by Jacob W.F. Sundberg<sup>1</sup>

THE SPORRONG LÖNNROTH Moot Court Competition started in 1984. The idea of a common Nordic Moot Court had been in preparation for a number of years, first as a Nordic project based on the uniform laws of the Nordic countries. With the emergence of the European Convention on Human Rights, however, the possibilities offered by this instrument were discovered. Here was a law in treaty form that all the Nordic countries<sup>2</sup> had ratified and were supposed to apply. Furthermore, its implementation was based on proceedings before the European Court. In addition, it was found that spreading the message of the Convention could rely upon the support of the Nordic judges on the European Court in Strasbourg.

The idea was met with a positive response at the University of Lund in Sweden. The Norwegian organisers of the Nordic Meeting of Lawyers (*Nordiska Juristmötet*) allowed me to run an extramural conference on the matter at the Oslo meeting in August 1984. That brought enough glamour to the exercise to make it possible to start in 1984 the first round, based on volunteers at every point: the students, the administration and the judges. The support of the Strasbourg judges made it possible to recruit local Nordic judges to sit with a presiding Strasbourg judge.

The rules of the exercise were with certain adaptations copied from the Jessup International Law Moot Court Competition.<sup>3</sup>

## Nordic romanticism

Unlike the *Concours René Cassin*, which is based on the exclusive use of the French language, the Nordic competition appealed to Nordic romanticism by making the three Scandinavian languages – Danish, Norwegian and Swedish – exclusively but interchangeably the permitted languages of the competition. Moreover, in another appeal to Nordic romanticism, in the role of the defendant state in the competition was resurrected *the Calmar Union*, the union that once, between 1397 and 1521, united all the countries nowadays organised as the sovereign states Denmark, Finland, Iceland, Norway and Sweden. The Calmar Union was so far back in distant history that nobody hated it any more, and thus everybody could feel free to argue liberally about its possible faults and blessings. Having received its first Prize out of the award to the applicants in the case of *Sporrong Lönnroth v. Sweden*<sup>4</sup> the competition was baptised in recognition of the family Sporrong generosity: the **Sporrong Lönnroth Moot Court Competition** (nowadays Sporrong Lönnroth for short.)

The competition was initially completely dependent on voluntary

contributions. It was organised on the basis of autonomous and permanent Advocate Clubs, presided over by a well-renowned senior Advocate, who undertook mainly to show convivial and other generosity towards the Club's team of students in order to create and stimulate an *esprit de corps*. The Club President was not allowed to take part in the competition in other ways: he was not part of the team. But those Advocates who took upon themselves to create a club – four clubs during the first session – did so with an eye on how the competition raised the status of Advocates generally.

Once the competition had started and turned out to be a success, a new phenomenon appeared. Veterans from previous years' competitions stayed on in the clubs in order to help the newcomers to find their way. They came to be known as *seniors* and their presence contributed to the permanence of the Advocate Clubs. The seniors contributed to the accumulation of wisdom about the European Convention in the clubs, most importantly perhaps the command of the *acquis* created by the European Commission and the Court, and of the literature that was growing up around the application of the Convention.

From the beginning, the ambition was to make this a competition among law students from all the Nordic countries. There were

1 Professor of Jurisprudence Emeritus, University of Lund, Sweden.

2 Finland – like Iceland – is considered a Nordic country but not a Scandinavian one. It was not until 1989 that Finland joined the Council of Europe, followed the year after by the ratification of the European Convention on Human Rights.

3 See the draft in *Affären fr. Eddan t. Ekelöf. En vitbok. Dokumentsamling utgiven av Institutet för offentlig och internationell rätt*, IOIR No. 61, pp. 99-114.

4 *Sporrong and Lönnroth v. Sweden*, Series A, No. 52.

observers from the other Nordic countries present at the first pleading sessions. Denmark and Iceland quickly joined the enterprise, scouting expeditions went out to Norway and to Finland and soon similar Advocate Clubs were created there. After a while, there were twelve Advocate Clubs in the organisation. Although autonomous, they nevertheless in some way represented the local universities. Thus the universities in Copenhagen, Aarhus, Oslo and Bergen by one club each; the university in Stockholm by four clubs and those in Lund and Uppsala by one club each. The university in Reykjavík was represented by one club, and so was the university in Helsinki. This meant that each year some 72 students went through the exercise. All together, today around 1 200 lawyers have acquired their basic knowledge of the Convention system this way.

Twelve clubs was the limit. Every club created one brief of a maximum of 25 pages for the petitioner, and one brief for the defendant Calmar Union.

The organisation has remained essentially the same throughout the 17 years that the competition has been running so far. While some Advocate Clubs have changed Presidents and/or corporate names, their permanence has remained, with only one exception: one of the Stockholm clubs went into oblivion and was replaced by a new Advocate Club set up at the University of Tromsø in Norway.

## **17 years of achievement**

The first point is of course training the students. The problems sketched in the fact sheet forced them to familiarise themselves with the *acquis* and European literature. However, since the problems are constructed on the basis of local law in one of the Nordic countries – a different country each time – the students have also been compelled to familiarise themselves with the legal instruments and the legal situation in that neighbouring

country. In this way, the competition is also a comparative law exercise. Of course, this means that students from countries other than the one that is the theatre of the plot may be at a disadvantage. In order to compensate for that, the fact sheet is supplemented by an array of legal instruments (statutes, precedent reports, articles in legal periodicals, and newspaper clippings), the purpose being to give outsiders about as good a command of the legal situation in question as insiders. Some of these annexes also provide key documents from Strasbourg. All this is accumulated as wisdom in the clubs, due to their very permanence and the contributions of the seniors.

The second point is training the judges. They are given all the briefs in advance, as well as a memorandum prepared by the Programme Leader who has graded the briefs, setting out in short excerpts the major arguments advanced by the competing teams of the Advocate Clubs. At the pleading session, the judges are organised in four divisions, each one presided over by a European judge. They listen to the same case three times over, each time pleaded by a new team. The fact sheets are written in such a way as to focus on a limited number of legal issues, which will thus be treated in depth. The judges thus gain a thorough insight into the problems disputed, and their backgrounds, locally and in Strasbourg. Since most of the judges are of the highest judicial rank back home – court presidents and supreme court justices – their very presence at Sporrang Lönnroth will contribute to spreading the message in their own courts back home. Annual reports with pictures convey the message to broader constituencies.

The third point is the the centre of the whole exercise: the European message. The European Convention becomes a living factor in everyday legal life, and human rights not a faraway abstract, but something of immediate concern to practising lawyers.

The Convention builds upon the autonomous legal notions: law, court, tribunal, civil rights, criminal charge, legislative intent, etc. Students have to penetrate the institutions in local law and relate them to the corresponding European notion. This often calls for an in-depth analysis of local law.

## **European dimension**

The European system is essentially a case-law system which proceeds by the judges in Strasbourg taking small steps towards bettering the protection of human rights. Every time a decision against a defendant state is being prepared, they have to consider what the repercussions may be in other jurisdictions. Understanding the working of the European Court requires a comparative law understanding. It has a European dimension and this is the one that is revealed in the course of the moot court competition as run in Sporrang Lönnroth.

Essentially, European human rights do not know any political barriers. A side-effect of this is that Sporrang Lönnroth untightens the grip of legal positivism by bringing in other nationalities into the exercise. The reluctance with which one used to react when tempted to criticise one's own government disappears in the course of the Sporrang Lönnroth exercise. This is so because wherever the fact sheet places the dispute, there will be students from the other countries who will pick fault with and argue energetically the shortcomings of the Calmar Union government which is the stand-in for the actual government (easily recognisable by the mere fact of the placing of the dispute). This brings an invigorating atmosphere to the interchange that affects all the competing teams, whatever inhibitions their own legal training may have had in tow. Such a refreshing interchange stimulates the quality of the legal analysis, and that is perhaps the most lasting contribution of the Competition to the quality of Nordic legal training in general.

#### 4. Composition of the Court at 28 February 2001<sup>1</sup> by order of precedence

<b>Mr</b>	<b>Luzius Wildhaber</b>	<i>Swiss</i>	President
<b>Ms</b>	<b>Elisabeth Palm</b>	<i>Swedish</i>	Vice-president
<b>Mr</b>	<b>Christos Rozakis</b>	<i>Greek</i>	Vice-president
<b>Mr</b>	<b>Georg Ress</b>	<i>German</i>	Section president
<b>Mr</b>	<b>Jean-Paul Costa</b>	<i>French</i>	Section president
<b>Mr</b>	<b>Antonio Pastor Ridruejo</b>	<i>Spanish</i>	
<b>Mr</b>	<b>Luigi Ferrari Bravo</b>	<i>Italian</i>	Elected as judge in respect of San Marino
<b>Mr</b>	<b>Gaukur Jörundsson</b>	<i>Icelandic</i>	
<b>Mr</b>	<b>Giovanni Bonello</b>	<i>Maltese</i>	
<b>Mr</b>	<b>Lucius Caflisch</b>	<i>Swiss</i>	Elected as judge in respect of Liechtenstein
<b>Mr</b>	<b>Loukis Loucaides</b>	<i>Cypriot</i>	
<b>Mr</b>	<b>Jerzy Makarczyk</b>	<i>Polish</i>	
<b>Mr</b>	<b>Pranas Kūris</b>	<i>Lithuanian</i>	
<b>Mr</b>	<b>Ireneu Cabral Barreto</b>	<i>Portuguese</i>	
<b>Mr</b>	<b>Riza Türmen</b>	<i>Turkish</i>	
<b>Ms</b>	<b>Françoise Tulkens</b>	<i>Belgian</i>	
<b>Ms</b>	<b>Viera Stráznická</b>	<i>Slovakian</i>	
<b>Mr</b>	<b>Corneliu Bîrsan</b>	<i>Romanian</i>	
<b>Mr</b>	<b>Peer Lorenzen</b>	<i>Danish</i>	
<b>Mr</b>	<b>Willi Führmann</b>	<i>Austrian</i>	
<b>Mr</b>	<b>Karel Jungwiert</b>	<i>Czech</i>	
<b>Sir</b>	<b>Nicolas Bratza</b>	<i>British</i>	
<b>Mr</b>	<b>Marc Fischbach</b>	<i>Luxemburger</i>	
<b>Mr</b>	<b>Volodymyr Butkevych</b>	<i>Ukrainian</i>	
<b>Mr</b>	<b>Josep Casadevall</b>	<i>Andorran</i>	
<b>Mr</b>	<b>Boštjan Zupancic</b>	<i>Slovenian</i>	
<b>Ms</b>	<b>Nina Vajic</b>	<i>Croatian</i>	
<b>Mr</b>	<b>John Hedigan</b>	<i>Irish</i>	
<b>Ms</b>	<b>Wilhelmina Thomassen</b>	<i>Dutch</i>	
<b>Mr</b>	<b>Matti Pellonpää</b>	<i>Finnish</i>	
<b>Ms</b>	<b>Margarita Tsatsa Nikolovska</b>	<i>citizen of "the Former Yugoslav Republic of Macedonia"</i>	
<b>Mr</b>	<b>Tudor Pantiru</b>	<i>Moldovan</i>	
<b>Ms</b>	<b>Hanne Sophie Greve</b>	<i>Norwegian</i>	
<b>Mr</b>	<b>András Baka</b>	<i>Hungarian</i>	
<b>Mr</b>	<b>Rait Maruste</b>	<i>Estonian</i>	
<b>Mr</b>	<b>Egils Levits</b>	<i>Latvian</i>	
<b>Mr</b>	<b>Kristaq Traja</b>	<i>Albanian</i>	
<b>Ms</b>	<b>Snejana Botoucharova</b>	<i>Bulgarian</i>	
<b>Mr</b>	<b>Mindia Ugrekhelidze</b>	<i>Georgian</i>	
<b>Mr</b>	<b>Anatoly Kovler</b>	<i>Russian</i>	
<b>Mr</b>	<b>Michele de Salvia</b>	<i>Italian</i>	Registrar
<b>Mr</b>	<b>Paul Mahoney</b>	<i>British</i>	Deputy Registrar
<b>Ms</b>	<b>Maud de Boer-Buquicchio</b>	<i>Dutch</i>	Deputy Registrar

1. The seat of the judge in respect of Italy is currently vacant.

## 5. The Committee of Ministers' actions under the European Convention on Human Rights

The Committee of Ministers acts to ensure the collective guarantee of the rights and fundamental freedoms contained in the Convention and its protocols under the following articles:

Under **Article 32** of the former version of the Convention (see the transitional provisions in Protocol No. 11) it has responsibility for deciding, for cases that are not referred to the Court, whether or not there has been a violation of the Convention; and for awarding, where necessary, just satisfaction to the victims. The Committee of Ministers' decision concerning the violation – which can be equated with a judgment of the Court – may, since 1995, take one of two forms: an “interim” resolution, which at the same time makes public the Commission's report; or a “traditional” resolution (adopted after the complete execution of the judgment), in which case the Commission's report remains confidential for the entire period of the execution.

So in the same way as it supervises the execution of the Court's judgments, the Committee of Ministers is also responsible for supervising the execution of its own decisions; and its examination is not complete until all the measures for the execution of the judgment have been carried out. Where the Committee of Ministers decides to publish immediately its decision on the violation, a “final” resolution is adopted once all the measures required for its execution have been carried out.

The Committee of Ministers' decisions on just satisfaction are not published separately but appear as “traditional” or “final” resolutions.

Under **Article 54** of the former version of the Convention, now **Article 46** of the Convention as modified by Protocol No. 11, the Committee of Ministers has the responsibility for supervising the carrying out of the measures adopted by the defending states for the implementation of the Court's judgments. These may be measures that concern the applicant, such as payment of just satisfaction, reopening of proceedings at the origin of the violation, reversal of a judicial verdict or discontinuation of expulsion proceedings; or measures to prevent the repetition of the violation, such as changing legislation or case-law, appointing extra judges or magistrates to absorb a backlog of cases, building detention centres suitable for juvenile delinquents, introducing training for the police, or other similar steps.

Owing to the large number of resolutions adopted by the Committee of Ministers under these articles, they are listed here in tabular form, with only those which present a particular interest being summarised. Further information may be obtained from the Directorate General of Human Rights at the Council of Europe, or through the Committee of Ministers' Internet site at <http://cm.coe.int/>.

The following summary presents resolutions adopted at the 732nd and 741st meetings of the Ministers' Deputies (held over the period November 2000 – February 2001). The resolutions printed *in italics* in the lists are of particular interest, and are summarised after the appropriate table.

### A. Final resolutions (in cases where an interim resolution has already been published)

Case	Resolution	Article(s)
<i>Fernández Fraga v. Spain</i>	<i>F (2000) 151</i>	6.1
L.G. V v. Sweden	F (2000) 153	6.1
Ciftci v. Austria	F (2001) 2	8
<i>Kovachev v. Bulgaria</i>	<i>F (2001) 3</i>	6.1
<i>Hakkar v. France</i>	<i>F (2001) 4</i>	6.1, 6.3b, c
<i>Union des athées v. France</i>	<i>F (2001) 5</i>	11 and 14
<i>Zegwaard &amp; Zegwaard B.V. v. Netherlands</i>	<i>F (2001) 8</i>	6.2
<i>Ciepluch v. Poland</i>	<i>F (2001) 10</i>	5.3, 6.1
Van Boerum v. Netherlands	F (2001) 15	6.1
Wokke v. Netherlands	F (2001) 16	6.1
Fidler Gebhard v. Austria	F (2001) 19	6.1, 8
Fidler Gertrude v. Austria	F (2001) 20	6.1, 8

Dimova v. Bulgaria	F (2001) 21	6.1
J.-P.G. II v. France	F (2001) 27	6.1
<i>P.M. v. Hungary</i>	<i>F (2001) 30</i>	3
McMullen v. Ireland	F (2001) 31	6.1
Baggi v. Italy	F (2001) 33	6.1
Comerci v. Italy	F (2001) 36	6.1
G.L. III v. Italy	F (2001) 39	6.1
N.B. v. Italy	F (2001) 41	6.1
N.C. v. Italy	F (2001) 42	6.1
Pacelli v. Italy	F (2001) 43	6.1
Perna v. Italy	F (2001) 45	6.1
Soave v. Italy	F (2001) 46	6.1
S.J., B.J. and G.J. v. Sweden	F (2001) 55	6.1

### Fernández Fraga v. Spain

Application No. 31263/96

#### **Resolution ResDH (2000) 151, 18 December 2000**

The applicant complained of the absence of a fair trial of certain proceedings before the labour courts. In Interim Resolution DH (98) 92, adopted on 22 April 1998, the Committee of Ministers had said that there had been a violation of Article 6 (1).

In this resolution the Committee of Ministers satisfied itself that the Government of Spain had paid the applicant the total sum.

Whereas during the examination of the case by the Committee of Ministers, the Government of the respondent State indicated that the Commission's report as well as the Committee of Ministers' decisions had been sent out to the authorities directly concerned, notably to the Tribunal for Social Affairs No. 1 (*Juzgado de lo Social n° 1*), the Constitutional Tribunal and the General Council of Judicial Courts (*Consejo General del Poder Judicial*).

### **Ciftci v. Austria**

Application No. 24375/94

#### **Resolution ResDH (2001) 2, 26 February 2001**

The applicant complained that he had been sentenced to a prohibition of residence in Austria, following a conviction for drugs offences, despite the fact that, *inter alia*, he had been living in Austria since the age of seven years and that he was married to an Austrian citizen with whom he had had three children, all of them having Austrian citizenship. Having regard to Interim Resolution DH (99) 27, adopted on 18 January 1999, in which the Committee of Ministers made public the report of the European Commission of Human Rights, and concluded that there had been a violation of Article 8.

In this resolution the Committee of Ministers noted that the Government of Austria had paid the applicant the sum agreed upon and had taken the following measures:

#### **Appendix to Final Resolution ResDH (2001) 2 Information provided by the Government of Austria during the examination of the Ciftci case by the Committee of Ministers**

In order to prevent the repetition of the violation found in the present case, copies of the Commission's report have been sent by the Federal Chancellery to the authorities concerned so that, when they have to apply the Aliens Police Act 1997, they will take into account the requirements of Article 8, as elucidated by the present case.

The Federal Chancellery also transmitted the Commission's report to the Administrative Court (*Verwaltungsgerichtshof*) and is of the opinion that, given the direct effect given to the Convention and the case-law of the Court in domestic law, the Administrative Court if seized of similar cases to the Ciftci case, would take into account the criterion of the applicants' family life in conformity with the case-law of the Strasbourg organs.

As regards the individual situation of the applicant, the Austrian Government specified that Mr. Ciftci's residence prohibition was lifted as from 5 March 1998, and that the applicant now lives legally in Austria.

In the light of these measures, the Austrian Government is of the opinion that it has fulfilled its obligations under former Article 32 of the Convention.

### **Kovachev v. Bulgaria**

Application No. 29303/95

#### **Resolution ResDH (2001) 3, 26 February 2001**

The applicant complained that he could not have a hearing before an independent and impartial tribunal in the determination of his civil right to certain social benefits.

In its Interim Resolution DH (98) 152, adopted on 11 June 1998, the Committee of Ministers decided that there had been a violation of Article 6 (1).

In this resolution the Committee of Ministers noted that the Government of Bulgaria had paid the applicant the total sum and had taken the following measures:

#### **Appendix to Resolution ResDH (2001) 3 Information provided by the Government of Bulgaria during the examination of the Kovachev case by the Committee of Ministers**

The Government submits that the violation of Article 6 in this case was a consequence of the application of the 1992 Social Welfare Regulations, which made no provision for referral to the courts of disputes concerning social benefits, but made all such disputes a matter for the administrative authorities only (paragraphs 20-21, 23 and 43-44 of the Commission report of 28 October 1997).

Since the events to which this case refers, the regulations have been revised on several occasions. The latest Social Welfare Act was passed by Parliament on 7 May 1998, i.e. several months after the Commission's ruling that Article 6 had been violated (report of 28 October 1997). Section 13, para. 3 of this Act, which is still in force, expressly provides that decisions taken by the regional social welfare directorates may be appealed under the Code of Administrative Procedure, which specifically provides for the possibility of judicial appeal.

The new Social Welfare Regulations, which came into force on ... 1998 and cover implementation of the new act, also expressly provide for judicial appeal against decisions taken by the regional social welfare directorates (Article 29, paragraph 2).

The Government considers that these legislative and regulatory provisions ensure respect for Article 6, and particularly the requirement concerning access to a court, and so effectively prevent further violations of the kind identified in the Kovachev case. It accordingly considers that it has fulfilled its obligations under Article 32 of the Convention.

### **Hakkar v. France**

Application No. 19033/91

#### **Resolution ResDH (2001) 4, 26 February 2001**

The applicant complained of the excessive length of certain criminal proceedings against him, in the context of the same proceedings before the Assize Court of Yonne, as a result of which he was sentenced to life imprisonment and not been given the time or the facilities necessary to prepare his defence and was not represented at the trial.

Having noted that, in view of the gravity of the violation of the right to a fair trial, which cast a serious doubt on the outcome of the domestic proceedings impugned, and the resulting very serious consequences for the applicant, specific measures were necessary in order to erase the consequences of the violation. Having noted with satisfaction that, in the absence of any legal remedy permitting the re-opening of the impugned proceedings, the French Parliament adopted, on 15 June 2000, a new law making it possible to re-examine a criminal decision following the pronouncement of a judgment of the European Court of Human Rights, thus giving effect to Recommendation No. R (2000) 2 of the Committee of Ministers to member states on the re-examination or



reopening of certain cases at domestic level following judgments of the European Court of Human Rights. In this resolution the Committee of Ministers noted that the Government of France had paid the applicant the total sum and had taken the following measures:

**Appendix to Resolution ResDH (2001) 4  
Information provided by the Government of France  
during the examination of the Hakkar case by the  
Committee of Ministers**

– *As regards individual measures:*

Adoption of the provisions concerning “re-examination of criminal sentences following the pronouncement of a judgment of the European Court of Human Rights” during the examination of the Hakkar case

Act No. 2000-516 of 15 June 2000 strengthening the protection of the presumption of innocence and the rights of victims, which entered into force upon its publication in the Official Journal of the French Republic on 16 June 2000 introduced a third chapter “on re-examination of criminal decisions following the pronouncement of a judgment of the European Court of Human Rights” into the Code of Criminal Procedure.

New Article 626-1 of the Code of Criminal Procedure provides that: “Review of a final criminal decision may be requested on behalf of any person found guilty of an offence where it emerges from a judgment delivered by the European Court of Human Rights that the conviction was in breach of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms or the Protocols thereto, and where the violation found, by its nature and gravity, has injurious consequences for the convicted person which could not be remedied by the “just satisfaction” awarded under Article 41 of the Convention.”

The succeeding articles (626-2 to 626-7) set up a re-examination board composed of judges of the Cour de cassation and lay down the procedures to be followed before the board.

Article 626-5 provides that “Stay of execution of the sentence may be ordered by the board or the Cour de cassation itself at any stage of the review procedure.”

Finally, the transitional provisions of the Act provide that: “applications for review submitted in accordance with Article 626-1 et seq. of the Code of Criminal Procedure and founded on a judgment delivered by the European Court of Human Rights prior to publication of this Act in the Official Gazette of the French Republic may be made within one year after publication. For the purposes of the aforesaid articles, decisions taken by the Committee of Ministers of the Council of Europe following a decision by the European Commission of Human Rights under (former) Article 32 of the European Convention in Human Rights, or Article 5 (paragraph 6) of Protocol No. 11 to the Convention, shall be equated to European Court of Human Rights judgments.”

– *Application of the new provisions to the Hakkar case:*

On 18 July 2000, Mr Hakkar lodged an application to re-examine the judgment of the Yonne Assize Court of 8 December 1989 together with a request to suspend his conviction. These requests were considered by the Re-examination Board on 30 November 2000.

As regards the request for suspension of his sentence, the Board ordered the suspension of the life sentence pronounced by Yonne Assize Court on 8 December 1989 but ruled inadmissible the request to suspend an 8-year sentence pronounced by the Paris Appeal Court on 27 February 1992 for attempted escape with violence.

As regards the application for re-examination, the Board concluded that “the violations of the right to have the time and necessary to prepare one’s defence and the right to be assisted by counsel of one’s choice resulted, by their nature

and their gravity, in harmful consequences for the convicted person which can only be brought to an end by a re-examination of the case”. The Board thus accepted the application to re-examine the life sentence (with a minimum tariff of 18 years) pronounced by Yonne Assize Court on 8 December 1989, and referred the case to the Hauts de Seine Assize Court which will undertake the new trial as soon as possible during spring 2001. The French Government undertakes to ensure that the new trial will be treated with great diligence.

– *With regard to general measures:*

The French authorities recall that this case has its origin in the decisions of the President of the Assize Court to postpone the consideration of the case. This was a personal choice by the President, who might easily have granted the postponement of the case under the terms of Article 287 of the Code of Criminal Procedure which provides that “The President may, either of his own motion or at the request of the prosecution, order a postponement to a later session cases which, in his view, are not ready for judgment at the session for which they are placed on the roll”.

The full text of the Commission’s report is available on the web site of the European Court of Human Rights ([www.echr.coe.int/hudoc](http://www.echr.coe.int/hudoc)). The French authorities specify that copies of the Commission’s report have been sent to the authorities directly concerned by this case. They consider, taking into account the specific circumstances of the case and the direct effect normally given to the Convention and to the case-law of the Strasbourg organs in domestic law (see, *inter alia*, Cass. Soc. 14 January 1999 Bozkurt, Cass. Civ. 28 April 1998 M. G. and Conseil d’Etat 14 February 1996 Maubleu), that these measures will prevent new violations similar to that found in this case.

## Union des athées v. France

Application No. 14635/89

### Resolution ResDH (2001) 5, 26 February 2001

The applicant association complained that it was prevented by law from receiving a legacy.

In its decision, adopted on 6-7 June 1995, the Committee of Ministers decided that there had been a violation of Article 14 combined with Article 11.

In this resolution the Committee of Ministers noted that the Government of France had paid the applicant the total sum and then the default interest due in respect of the delay, and had taken the following measures:

**Appendix to Final Resolution ResDH (2001) 5  
Information provided by the Government of France  
during the examination of the Union des Athées case by  
the Committee of Ministers**

Act No. 87-571 on the development of sponsorship entitles registered associations such as the applicant association to receive donations. In this way, the Act provided a legal basis for the long-tolerated practice of gifts from hand to hand, thereby reducing the differences between the legal arrangements governing different types of association.

Section 16 of the Act provides that registered associations may “receive gifts from hand to hand, as well as donations from recognised associations”.

Gifts from hand to hand may take the form of cash, cheques, bearer securities, giro transfers, furniture or life-insurance policies. There are no limits to the amount that may be given. Gifts of this kind do not require notarised deeds or official authorisation. The only requirement, according to case-law, is for the relevant funds to have been set aside before the donor’s death. For example, the courts have already ruled that a gift of this nature was legitimate if the cheque was intended to be cashed after the death of the drawer, pro-

vided that the funds were available (Aix-en-Provence Court of Appeal, 12 March 1987).

The Commission report has been forwarded to the authorities directly concerned and may be consulted on the Council of Europe website ([www.echr.coe.int/hudoc](http://www.echr.coe.int/hudoc)) and the French site Legifrance ([www.legifrance.gouv.fr](http://www.legifrance.gouv.fr)).

Bearing in mind the status in domestic law of the Convention and the Strasbourg organs' case-law (see in particular Cass. Soc. 14 January 1999 Bozkurt, Cass. Civ. 28 April 1998 M. G. and Conseil d'Etat 14 February 1996 Maubleu), the Government of France considers that authorities or courts presented in future with similar problems to that encountered by the applicant association will pursue this progressive interpretation of the law and give full effect to the decision of the Committee of Ministers, taken in the light of the Commission's report on the case.

The Government of France accordingly considers that it has fulfilled its obligations under former Article 32 of the Convention.

### Zegwaard and Zegwaard B.V. v. Netherlands

Application No. 26493/95

#### Resolution ResDH (2001) 8, 26 February 2001

The applicants complained of a breach of the presumption of innocence insofar as the sentences they had received in certain criminal proceedings at appeal took account of offences of which they had not been convicted.

In this resolution the Committee of Ministers noted that the Government of Netherlands had paid the applicants the total sum.

During the examination of the case by the Committee of Ministers, the Government of the Netherlands drew the Committee's attention to the fact that, on account of the specific circumstances of the case, new similar violations of the Convention could be avoided for the future by informing the authorities concerned of the requirements of the Convention; in addition, the Commission's report has been published in the NCJM Bulletin – *Nederlands Tijdschrift voor de Mensenrechten*, 1999, pp. 675-679.

### Ciepluch v. Poland

Application No. 31488/96

#### Resolution ResDH (2001) 10, 26 February 2001

The applicant complained of the excessive length of certain criminal proceedings and of the excessive length of his detention on remand.

In his Interim Resolution DH (98) 384, adopted on 12 November 1998, the Committee of Ministers decided that there had been a violation of Article 6 (1) and of Article 5, (3).

In this resolution the Committee of Ministers noted that the Government of Poland had paid the applicants the total sum.

During the examination of the case by the Committee of Ministers, the Government of the respondent State drew the Committee's attention to the fact that, on account of the specific circumstances of the case, new similar violations of the Convention could be avoided for the future by informing the authorities concerned of the requirements of the Convention: translated

copies of the Commission's report have accordingly been sent out to the Złotowo District Prosecutor, to the Poznań Regional Court and to the Ministry of Justice in order to be communicated to all courts of law; a circular letter from the Ministry of Justice has also been sent to the Director of the Judicial and Notary Department; in addition, the Commission's report was published in Polish in the Bulletin of the Information Centre of the Council of Europe in Warsaw, No 3/2000.

### P.M. v. Hungary

Application No. 23636/94

#### Resolution ResDH (2001) 30, 26 February 2001

The applicant, a person paralysed from the waist down, complained of the inhuman and degrading conditions of imprisonment.

In this resolution the Committee of Ministers noted that the Government of Hungary had paid the applicant's sole heir the total sum and had also indicated that, in view of the specific circumstances of the case, new similar violations of the Convention could be avoided for the future by informing the authorities concerned of the requirements of the Convention: copies of the Commission's report have accordingly been disseminated to different detention centres in Hungary.

### B. "Traditional" resolutions establishing whether or not there has been a violation and supervising the decision

Case	Resolution	Article(s)
Talenti v. Italy	(2001) 58	6.1

### C. "Traditional" resolutions concluding the supervision of a judgment of the European Court of Human Rights

Case	Resolution	Article(s)
Boccardi v. Italy	(2000) 139	(friendly settlement)
Marrazzo v. Italy	(2000) 140	(friendly settlement)
W.R. v. Austria	(2000) 141	6.1
Bruny v. France	(2000) 142	(friendly settlement)
Donsimoni v. France	(2000) 143	6.1
Maini v. France	(2000) 144	6.1
Seidel Jean v. France	(2000) 145	6.1
D.M. V v. Italy	(2000) 146	(friendly settlement)
Scuderi Angelo v. Italy	(2000) 147	6.1
Barcelar de Sousa Machado I v. Portugal	(2000) 148	(friendly settlement)
Rodrigues Coelho Osório v. Portugal	(2000) 149	(friendly settlement)
Velho da Costa de Abreu Rocha and Tito de Morais v. Portugal	(2000) 150	(friendly settlement)
García Manibardo v. Spain	(2000) 152	6.1
García Faria v. Portugal	(2000) 154	(friendly settlement)
McDaid, Ward, Giles, Leece, Shorters and Thwaites v. United Kingdom	(2000) 155	(friendly settlement)

<i>News Verlags GmbH &amp; Co KG</i>	<i>v. Austria</i>	(2001) 1	10
<i>Pammel</i>	<i>v. Germany</i>	(2001) 6	6.1
<i>Probstmeier</i>	<i>v. Germany</i>	(2001) 7	6.1
<i>Belziuk</i>	<i>v. Poland</i>	(2001) 9	6.1, 6.3c
<i>Mustaf</i>	<i>v. Poland</i>	(2001) 11	5.4
<i>Teixeira de Castro</i>	<i>v. Portugal</i>	(2001) 12	6.1
<i>Buscarini, Della Balda and Manzaroli</i>	<i>v. San Marino</i>	(2001) 13	9
<i>Mauer</i>	<i>v. Austria</i>	(2001) 14	6.1
<i>Comingersoll S.A. v. Rodrigues</i>	<i>v. Portugal</i>	(2001) 17	6.1
<i>Henry Krog</i>			
<i>Pedersen</i>	<i>v. Denmark</i>	(2001) 22	(friendly settlement)
<i>Bertin-Mouro</i>	<i>v. France</i>	(2001) 23	6.1
<i>Bouilly</i>	<i>v. France</i>	(2001) 24	6.1
<i>Gozalvo</i>	<i>v. France</i>	(2001) 25	6.1
<i>Boudier</i>	<i>v. France</i>	(2001) 26	6.1
<i>N'Diaye</i>	<i>v. France</i>	(2001) 28	(friendly settlement)
<i>Perié</i>	<i>v. France</i>	(2001) 29	(friendly settlement)
<i>Arbore</i>	<i>v. Italy</i>	(2001) 32	6.1
<i>Bottazzi</i>	<i>v. Italy</i>	(2001) 34	6.1
<i>Chierici Bianca</i>	<i>v. Italy</i>	(2001) 35	6.1
<i>Di Antonio</i>	<i>v. Italy</i>	(2001) 37	6.1
<i>Ghezzi</i>	<i>v. Italy</i>	(2001) 38	6.1
<i>Iacopelli</i>	<i>v. Italy</i>	(2001) 40	(friendly settlement)
<i>Parisse</i>	<i>v. Italy</i>	(2001) 44	6.1
<i>T. I</i>	<i>v. Italy</i>	(2001) 47	(friendly settlement)
<i>T. II</i>	<i>v. Italy</i>	(2001) 48	(friendly settlement)
<i>Tolli</i>	<i>v. Italy</i>	(2001) 49	(friendly settlement)
<i>Akin</i>	<i>v. Netherlands</i>	(2001) 50	(friendly settlement)
<i>Degro</i>	<i>v. Slovakia</i>	(2001) 51	(friendly settlement)
<i>Gaulieder</i>	<i>v. Slovakia</i>	(2001) 52	(friendly settlement)
<i>Matter</i>	<i>v. Slovakia</i>	(2001) 53	6.1
<i>Lindelöf</i>	<i>v. Sweden</i>	(2001) 54	(friendly settlement)
<i>Kiefer</i>	<i>v. Switzerland</i>	(2001) 56	6.1
<i>Tatete</i>	<i>v. Switzerland</i>	(2001) 57	(friendly settlement)

### García Manibardo v. Spain

Application No. 38695/97

#### Resolution ResDH (2000) 152, 18 December 2000

The complaints concerned, in particular, the fact that that the applicant could not enjoy her right of access to a court and therefore her right of a fair trial. In its judgment (15 February 2000) the Court held that there had been violation of Article 6 (1).

In this resolution the Committee of Ministers noted that the Government of Spain had paid the applicant the sum provided for in the judgment.

Whereas during the examination of the case by the Committee of Ministers, the Government of the respondent State indicated that the Court's judgment had been sent out to the authorities directly concerned as well as to the General Council of Judicial Courts (*Consejo General del Poder Judicial*).

### News Verlags GmbH and Co KG v. Austria

Application No. 31457/96

#### Resolution DH (2001) 1, 26 February 2001

The complaint concerned the absolute prohibition of the applicant company from publishing the picture of a suspect in the context of reports on criminal proceedings against him violated the applicant company's right to freedom of expression and discriminated against it in relation to other media. In its judgment of 11 January 2000 the Court held that there had been a violation of Article 10.

In this resolution the Committee of Ministers noted that the Government of Austria had paid the applicants the sum provided for in the judgment and had taken the following measures:

#### Appendix to Resolution ResDH (2001) 1

##### Information provided by the Government of Austria during the examination of the News Verlags GmbH and CoKG case by the Committee of Ministers

The judgment of the European Court of Human Rights has been brought to the attention of the public, as well as of the authorities directly concerned, by its publication in German in a number of Austrian legal journals, i.e. the *Österreichische Juristenzeitung* (ÖJZ 2000/10), the ÖIMR-Newsletter No. 2000/1 and *ecolex* (*ecolex* 2000, 321).

Given the direct effect given to the European Convention on Human Rights and the Court's case-law by Austrian courts (see, for instance, the Resolutions adopted in the cases *Bönisch*, DH (87) 1, *Oberschlick*, DH (93) 60 and *Gaygusuz*, DH (98) 372), the Government considers that these measures are sufficient to ensure for the future an interpretation of Section 78 of the Copyright Act in conformity with this judgment, thus avoiding new violations of the same kind.

The Government considers, in view of these measures, that Austria has met its obligations under Article 46 (1) of the Convention.

### Pammel v. Germany

Application No. 17820/91

#### Resolution DH (2001) 6, 26 February 2001

The complaint concerned the excessive length of certain proceedings concerning civil rights and obligations before the Constitutional Court.

In its judgment (1st July 1997) the Court held that there had been a violation of Article 6 (1).

In this resolution, the Committee of Ministers noted that the Government of Germany had paid the applicant the sum provided for in the judgment and had taken the following measures:

#### Appendix to Resolution ResDH (2001) 6

##### Information provided by the Government of Germany during the examination of the Pammel case by the Committee of Ministers

The Government of Germany first observes that the workload of the *Bundesverfassungsgericht* (Federal Constitutional Court) has substantially improved over the last years, as the backlog caused by the constitutional problems posed by German unification has been resolved.

The number of new cases brought before the Federal Constitutional Court had thus progressively decreased from 5 911 in 1995 (when it reached its maximum due to the unification problems) to 4 885 in 1999. Furthermore, the Federal Constitutional Court has had a positive balance in both 1998 and 1999 as the number of cases closed has exceeded the number of new cases brought by 216 and 323 respectively (the total number of cases closed in 1998 was 4 999 and 5 208 in 1999).

On the personnel side, in the year 2000, the number of legal staff assigned to the Federal Constitutional Court increased from 50 to 55. Further increases are being examined.

The Government is furthermore of the opinion that, in view of the direct effect of the European Convention on Human Rights as interpreted by the European Court of Human Rights in German law, the Federal Constitutional Court will adapt its practice of joining cases raising similar problems in such a way as to avoid unjustified delays in the examination of any of the cases.

It recalls in this context that on 16 July 1997 and 3 September 1997 respectively, the Federal Ministry of Justice sent letters to the *Bundesverfassungsgericht* informing it about the judgments of the European Court of Human Rights in the Probstmeier and Pammel cases and enclosing copies of both judgments in German.

Furthermore, the German translations of the two judgments were published in the *Europäische Grundrechtszeitschrift* (volume 14-16, of 17 September 1997, page 310 in the Pammel case and volume 17-18, of 22 September 1997, page 405 in the Probstmeier case) and in the *Neue Juristische Wochenschrift*, volume 42 of 15 October 1997, pages 2809-2811.

The Government of the Germany is of the opinion that with these measures it has complied with its obligations under former Article 53 of the Convention.

## Probstmeier v/ Germany

Application No. 20950/92

### Resolution DH (2001) 7, 26 February 2001

The applicant complained about the excessive length of certain proceedings concerning civil rights and obligations before the Constitutional Court.

In its judgment of 1st July 1997 the Court held that there had been a violation of Article 6 (1).

In this resolution, the Committee of Ministers noted that the Government of Germany had paid the applicant the sums provided for in the judgment and had taken the following measures:

#### Appendix to Resolution ResDH (2001) 7

##### Information provided by the Government of Germany during the examination of the Probstmeier case by the Committee of Ministers

The Government of Germany first observes that the workload of the *Bundesverfassungsgericht* (Federal Constitutional Court) has substantially improved over the last years, as the backlog caused by the constitutional problems posed by German unification has been resolved.

The number of new cases brought before the Federal Constitutional Court had thus progressively decreased from 5 911 in 1995 (when it reached its maximum due to the unification problems) to 4 885 in 1999. Furthermore, the Federal Constitutional Court has had a positive balance in both 1998 and 1999 as the number of cases closed has exceeded the number of new cases brought by 216 and 323 respectively (the total number of cases closed in 1998 was 4 999 and 5 208 in 1999).

On the personnel side, in the year 2000, the number of legal staff assigned to the Federal Constitutional Court increased from 50 to 55. Further increases are being examined.

The Government is furthermore of the opinion that, in view of the direct effect of the European Convention on Human Rights as interpreted by the European Court of Human Rights in German law, the Federal Constitutional Court will adapt its practice of joining cases raising similar problems in such a way as to avoid unjustified delays in the examination of any of the cases.

It recalls in this context that on 16 July 1997 and 3 September 1997 respectively, the Federal Ministry of Justice sent letters to the *Bundesverfassungsgericht* informing it about the judgments of the European Court of Human Rights in the Probstmeier and Pammel cases and enclosing copies of both judgments in German.

Furthermore, the German translations of the two judgments were published in the *Europäische Grundrechtszeitschrift* (volume 14-16, of 17 September 1997, page 310 in the Pammel case and volume 17-18, of 22 September 1997, page 405 in the Probstmeier case) and in the *Neue Juristische*

*Wochenschrift*, volume 42 of 15 October 1997, pages 2809-2811.

The Government of the Germany is of the opinion that with these measures it has complied with its obligations under former Article 53 of the Convention.

## Belziuk v. Poland

Application No. 23103/93

### Resolution DH (2001) 9, 26 February 2001

The complaint concerned the unfairness of certain criminal proceedings since the applicant was not allowed to appear in person at the hearing before the Court of appeal in order to present his defence.

In its judgment of 25 March 1997 the Court had held that there had been a violation of Article 6 (1) and (3c) of the Convention taken together.

In this resolution, the Committee of Ministers noted that the Government of Poland had taken the following measures:

#### Appendix to Resolution ResDH (2001) 9

##### Information provided by the Government of Poland during the examination of the Belziuk case by the Committee of Ministers

The Belziuk judgment has been translated and transmitted immediately after its delivery to the Regional Courts (acting as the Courts of appeal) with a circular letter from the Ministry of Justice. Having regard to Poland's obligation under the Convention, the letter stressed, inter alia, the necessity to change the practice of the courts of appeal under Articles 400 and 401 of the Code of Criminal Procedure as regards the admission of the accused to the appeal hearing. The Belziuk judgment has furthermore received a wide publicity in Poland. An extensive summary of the judgment (in Polish) was published in the legal section of *Rzeczpospolita*, one of the most important daily newspapers. The translation of the judgment was also published in the journal "*Prawo wiedzunarodowe publiczne*" (LEX, 1998, III, pp.519-531).

Shortly after the Belziuk judgment, on 6 June 1998, the Code of Criminal Procedure was amended. A new Article 451 which replaced the earlier Article 401 limited the appeal courts' discretion in deciding whether or not to bring the accused in detention to the hearing in case of appeal aimed at aggravation of a prison sentence (Article 451 para. 2). The main rule remained however unchanged: "The Court of appeal may order an accused, who is detained, to be brought to the hearing" (Article 451 para. 1, cf. para. 14 of the European Court's judgment in the Belziuk case).

Following the wide dissemination of the European Court's judgment the Polish courts expressly adapted their interpretation of the new Article to the requirements of the Convention as laid down by the European Court, notably in the Belziuk case. The change of the domestic practice is evidenced by several Supreme Court's judgments, notably quashing judgments delivered by regional courts which unduly refused to bring the accused at the appeal hearing (see for example the Supreme Court's judgments of 10 November 1999 and 5 December 2000). The Supreme Court's case-law shows that it is willing to give direct effect to the jurisprudence of the European Court, thus ensuring that Poland respects its undertakings under the Convention.

With a view to harmonising Article 451 of the Code of Criminal Procedure with the new domestic practice developed on the basis of Belziuk judgment, the Government decided to further amend this Article. The new text, which was adopted on 20 July 2000 and entered into force on 1 September 2000, provides as follows: "The Court of appeal shall order an accused, who is detained, to be brought to the

hearing, unless the court considers that the presence of his or her defence counsel is sufficient.”

The Government is of the opinion that the new legislative provision together with the direct effect given to the Convention and the European Court’s judgments in Polish law (see the examples above) will efficiently prevent the repetition of new similar violations of Article 6. The Government accordingly considers that Poland has complied with its obligation under former Article 53 of the Convention.

### **Musiał v. Poland**

Application No. 24557/94

#### **Resolution DH (2001) 11, 26 February 2001**

The complaint related to the excessive length of certain judicial proceedings concerning the lawfulness of the applicant’s detention in a mental hospital. In its judgment of 25 March 1999 the Court held that there had been a violation of Article 5 (4).

In this resolution the Committee of Ministers noted that the Government of Poland had paid to the applicant the sum provided for in the judgment and had taken the following measures:

#### **Appendix to Resolution ResDH (2001) 11 Information provided by the Government of Poland during the examination of the Musiał case by the Committee of Ministers**

In order to prevent new similar violations, the Ministry of Justice disseminated the Court’s judgment (in Polish translation) to the courts drawing specifically their attention to the fact that they remain fully responsible for ensuring that experts respect the deadlines imposed so as to avoid any unnecessary delay. The judgment has furthermore been disseminated to the Polish authorities, in particular those responsible for delays in the Musiał case (Katowice Regional Court, Rybnik mental hospital and Cracow University). In addition, the translation of the judgment has been published in Bulletin of the Information Centre of the Council of Europe (No. 3/2000, pp. 143-155).

It has furthermore been decided to increase the number of experts attached to the regional courts and their honorarium rates. The Presidents of regional courts have also taken administrative measures to improve cooperation between the courts and experts, notably through the organisation of more frequent joint meetings.

In the Government’s opinion, the above measures will prevent new violations similar to that found in the Musiał case and help to ensure that the Polish courts respect the requirement of speediness imposed by Article 5 para. 4 of the Convention. The Government accordingly considers that Poland has complied with its obligation under Article 46 (1) of the Convention in the present case.

### **Teixeira de Castro v. Portugal**

Application No. 25829/94

#### **Resolution ResDH (2001) 12, 26 February 2001**

The applicant complained of the fact that he did not have a fair hearing before criminal courts since he had been incited by police officers acting under cover to commit an offence for which he had subsequently been convicted mainly on the basis of the statements of these police officers.

In its judgment of 9 June 1998 the Court held that there had been a violation of Article 6 (1).

In this resolution, the Committee of Ministers noted that the Government of Portugal had paid the appli-

cant the sum provided for in the judgment and had taken the following measures:

#### **Appendix to Resolution ResDH (2001) 12 Information provided by the Government of Portugal during the examination of the Teixeira de Castro case by the Committee of Ministers**

In order to remedy the applicant’s individual situation, the Portuguese Public Prosecutor’s Office has requested that his conviction be deleted from his criminal record. The tribunal of Famalicão granted his request on 7 April 2000.

Furthermore, in order to ensure that the use of undercover agents does not unduly interfere with the right to fair trial guaranteed by the European Convention on Human Rights, Article 59 of Legislative Decree No. 15/93 on the prevention of drug-trafficking has been amended by Act No. 45/1996 of 3 September 1996. According to the added paragraph 3 to Article 59, the use of such persons is subject to a court’s approval, which has to be given within 5 days and for a specific period.

The Government is of the opinion that, in view of the supra-legal status of the Convention, as interpreted by the European Court of Human Rights, in Portuguese law (Constitutional Court judgments Nos. 345/99 of 15 June 1999 and 533/99 of 12 October 1999), the Portuguese courts will exercise this supervision and adapt their interpretation of the Code of Criminal Procedure (in particular of Article 126) in such a way as to avoid new violations similar to that found in the Teixeira de Castro case.

In order to facilitate this adaptation, the judgment of the European Court of Human Rights has been published in the *Revista Portuguesa de Ciência Criminal* (RPCC 10/2000) and also disseminated to the authorities concerned, including the police.

The Government of Portugal is of the opinion that with these measures Portugal has complied with its obligations under former Article 53 of the Convention.

### **Buscarini, Della Balda and Manzaroli v. San Marino**

Application No. 24645/94

#### **Resolution ResDH (2001) 13, 26 February 2001**

The applicants complained that the obligation to take an oath on the Gospels, on pain of forfeiting their parliamentary seats, constituted an infringement of their freedom of religion and conscience.

In its judgment of 18 February 1999 the Court had held that there had been a violation of Article 9.

In this resolution, the Committee of Ministers noted that the Government of San Marino had taken the following measures:

#### **Appendix to Resolution ResDH (2001) 13 Information provided by the Government of San Marino during the examination of the Buscarini case by the Committee of Ministers**

Law No. 115 of 29 October 1993 introduced a choice for newly elected members of the General Grand Council between the traditional oath and one in which the reference to the Gospels was replaced by the words “on my honour”.

Furthermore, on 30 June 2000, the full text of the judgment (in Italian, French and English) was made accessible to the public by displaying it on the doors of the Public Palace (“*ad valvas palatii*”) – as is traditionally done in San Marino for all important official information (such as new laws, etc.) – in order to enable anybody to obtain, upon request, a copy of the judgment.

The Government of the Republic of San Marino considers that these measures will prevent new violations similar to

that found in this case and that San Marino has thus fulfilled its obligations under Article 46 (1) of the Convention.

## **Mauer v. Austria**

Application No. 35401/97

### **Resolution ResDH (2001) 14, 26 February 2001**

The applicant complained of a breach in 1990 of the applicant's right of access to a tribunal due to the limited supervision exercised at that time by the Administrative Court of the decisions taken by the administrative authorities.

In its judgment of 20 June 2000 the Court held that there had been a violation of Article 6 (1) and that the finding of a violation constituted in itself sufficient

just satisfaction for any non-pecuniary damage sustained by the applicant.

In this resolution, the Committee of Ministers noted that the Government of Austria had paid the applicant the sum provided for in the judgment.

During the examination of the case by the Committee of Ministers, the Government of the respondent State recalled that measures had already been taken to avoid new violations of the same kind as the one found in this case, in particular through the setting up in January 1991 of independent administrative tribunals in the *Länder* (see *inter alia* Resolutions DH (96) 153 and DH (96) 154 in the cases of Schmutzger and Umlauf against Austria), and indicated that the Court's judgment had been sent out to the authorities directly concerned.

## B. European Social Charter

### I. State of signatures and ratifications of the Charter and its protocols at 28 February 2001

Member states	European Social Charter		Additional Protocol		Protocol amending the European Social Charter		“Collective Complaints” Protocol		European Social Charter (Revised)	
	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified
Albania	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	21/09/98	—
Andorra	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<b>04/11/00</b>	—
Armenia	—	—	—	—	—	—	—	—	—	—
Austria	22/07/63	29/10/69	04/12/90	—	07/05/92	13/07/95	07/05/99	—	07/05/99	—
Azerbaijan	—	—	—	—	—	—	—	—	—	—
Belgium	18/10/61	16/10/90	20/05/92	—	22/10/91	21/09/00	14/05/96	—	03/05/96	—
Bulgaria	<i>b</i>	<i>b</i>	<i>c</i>	<i>c</i>	<i>b</i>	<i>b</i>	<i>d</i>	<i>d</i>	21/09/98	07/06/00
Croatia	08/03/99	—	08/03/99	—	08/03/99	—	08/03/99	—	—	—
Cyprus	22/05/67	07/03/68	05/05/88	<i>c</i>	21/10/91	01/06/93	09/11/95	06/08/96	03/05/96	27/09/00
Czech Republic	27/05/92*	03/11/99	27/05/92*	17/11/99	27/05/92*	17/11/99	—	—	<b>04/11/00</b>	—
Denmark	18/10/61	03/03/65	27/08/96	27/08/96	—	**	09/11/95	—	03/05/96	—
Estonia	<i>b</i>	<i>b</i>	<i>c</i>	<i>c</i>	<i>b</i>	<i>b</i>	<i>b</i>	—	04/05/98	11/09/00
Finland	09/02/90	29/04/91	09/02/90	29/04/91	16/03/92	18/08/94	09/11/95	17/07/98	03/05/96	—
France	18/10/61	09/03/73	22/06/89	<i>b</i>	21/10/91	24/05/95	09/11/95	07/05/99	03/05/96	07/05/99
Georgia	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	30/06/00	—
Germany	18/10/61	27/01/65	05/05/88	—	—	**	—	—	—	—
Greece	18/10/61	06/06/84	05/05/88	18/06/98	29/11/91	12/09/96	18/06/98	18/06/98	03/05/96	—
Hungary	13/12/91	08/07/99	—	—	13/12/91	**	—	—	—	—
Iceland	15/01/76	15/01/76	05/05/88	—	—	**	—	—	04/11/98	—
Ireland	18/10/61	07/10/64	<i>c</i>	<i>c</i>	14/05/97	14/05/97	<b>04/11/00</b>	<b>04/11/00</b>	<b>04/11/00</b>	<b>04/11/00</b>
Italy	18/10/61	22/10/65	05/05/88	26/05/94	21/10/91	27/01/95	09/11/95	03/11/97	03/05/96	05/07/99
Latvia	29/05/97	—	29/05/97	—	29/05/97	—	—	—	—	—
Liechtenstein	09/10/91	—	—	—	—	—	—	—	—	—
Lithuania	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	08/09/97	—
Luxembourg	18/10/61	10/10/91	05/05/88	—	21/10/91	**	—	—	11/02/98	—
Malta	26/05/88	04/10/88	—	—	21/10/91	16/02/94	—	—	—	—
Moldova	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	03/11/98	—
Netherlands	18/10/61	22/04/80	14/06/90	05/08/92	21/10/91	01/06/93	—	—	—	—
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/03/97	20/03/97	—	—
Poland	26/11/91	25/06/97	—	—	18/04/97	25/06/97	—	—	—	—
Portugal	01/06/82	30/09/91	—	—	24/02/92	08/03/93	09/11/95	20/03/98	03/05/96	—
Romania	04/10/94	<i>b</i>	<i>c</i>	<i>c</i>	<i>b</i>	<i>b</i>	<i>b</i>	—	14/05/97	07/05/99
Russia	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	14/09/00	—
San Marino	—	—	—	—	—	—	—	—	—	—
Slovakia	27/05/92*	22/06/98	27/05/92*	22/06/98	27/05/92*	22/06/98	18/11/99	—	18/11/99	—
Slovenia	11/10/97	<i>b</i>	11/10/97	<i>c</i>	11/10/97	<i>b</i>	11/10/97	<i>d</i>	11/10/97	07/05/99
Spain	27/04/78	06/05/80	05/05/88	24/01/00	21/10/91	24/01/00	—	—	23/10/00	—
Sweden	18/10/61	17/12/62	05/05/88	05/05/89	21/10/91	18/03/92	09/11/95	29/05/98	03/05/96	29/05/98
Switzerland	06/05/76	—	—	—	—	—	—	—	—	—
“The former Yugoslav Republic of Macedonia”	05/05/98	—	05/05/98	—	05/05/98	—	—	—	—	—
Turkey	18/10/61	24/11/89	05/05/98	—	—	**	—	—	—	—
Ukraine	02/05/96	—	<i>a</i>	—	<i>a</i>	—	<i>a</i>	—	07/05/99	—
United Kingdom	18/10/61	11/07/62	—	—	21/10/91	**	—	—	07/11/97	—

\* = Date of signature by the Czech and Slovak Federal Republic. \*\* = State whose ratification is necessary for the entry into force of the protocol.

*a.* State having signed the Revised Social Charter. *b.* State having ratified the revised Social Charter. *c.* State having accepted the rights (or certain of the rights) guaranteed by the Protocol by ratifying the revised Charter. *d.* State having accepted the collective complaints procedure by a declaration made in application of Article D.2 of Part IV of the revised Social Charter.

## 2. Reservations and declarations

### European Social Charter (revised)

#### Andorra

*Declaration contained in a letter from the Minister for External Relations of Andorra, dated 2 November 2000, handed to the Secretary General at the time of signature of the instrument on 4 November 2000 – Or. Fr.*

The Government of the Principality of Andorra wishes this act of signature to be interpreted as a sign in favour of European solidarity. With the signature of the European Social Charter (revised), the Principality of Andorra joins the majority of member States of the Council of Europe which have recognised the Charter's principles. Nevertheless, the particular structure of the Andorran society and economy commit the Principality of Andorra to protect the essential elements of its specificity, and in this view, some articles of the European Social Charter (revised) seem to present difficulties for an immediate ratification.

#### Ireland

*Declaration contained in the instrument of ratification and in a letter from the Permanent Representative of Ireland, dated 4 November 2000, deposited on 4 November 2000 – Or. Engl.*

In accordance with Part III, Article A, of the Charter, Ireland considers itself bound by all the provisions of the Charter, except Article 8, paragraph 3; Article 21, paragraphs a and b; Article 27, paragraph 1, subparagraph c; and Article 31.

*Declaration contained in the instrument of ratification and in a letter from the Permanent Representative of Ireland, dated 4 November 2000, deposited on 4 November 2000 – Or. Engl.*

In view of the general wording of Article 31 of the Charter, Ireland is not in a position to accept the provisions of this article at this time. However, Ireland will follow closely the interpretation to be given to the provisions of Article 31 by the Council of Europe with a view to their acceptance by Ireland at a later date.

## 3. Activities of the supervisory bodies of the Charter

### European Committee of Social Rights

*The ECSR is a committee of independent experts charged with addressing the conformity of national situations with the European Social Charter and the revised European Social Charter.*

It is made up of the following members (following the election of four members and the election of a new Bureau): Mr S. Evju (Norwegian), Mr N. Aliprantis

(Greek), Mr M. Mikkola (Finnish), Mr R. Birk (German), Mr A. Bruto da Costa (Portuguese), Mrs M. Jamouille (Belgian), Mr T. Akillioglu (Turkish), Mr J.-M. Belorgey (French), Mrs C. Kollonay-Lehoczy (Hungarian).

Its work entails examining reports submitted by states who have ratified one of the two treaties and of examining collective complaints presented by trade union, employers organisations and NGOs in application of the 1995 Protocol providing for a system of collective complaints.

Three sessions were held in Strasbourg 173<sup>rd</sup> (6-10 November 2000), 174<sup>th</sup> (4-9 December 2000), and 175<sup>th</sup> session (12-16 February 2001).

### Examination of national reports

**Cycle XV-1** – The ECSR published its conclusions concerning Germany whose report was submitted late (the conclusions concerning other states were published in April 2000 and October 2000, see Bulletin Nos. 49 and 51), in February 2001.

On the Governmental Committee proposal, the Committee of Ministers adopted, during the 740<sup>th</sup> meeting of the Ministers Deputies on 7 February 2001:

– Resolution ResChS (2001) 5 concerned the implementation of the European Social Charter's hard core articles between 1997 and 1998 (15<sup>th</sup> supervision cycle - part I). It was decided to renew recommendations which have not yet been implemented in respect of Austria and Article 5 (equality of treatment), Ireland, Articles 5 and 6 para. 2 (negotiation licence) and 19 para. 8 (procedural guarantees), and lastly Turkey, Article 16 (equality between spouses).

– Recommendation RecChS (2001) 3, addressed to Malta, with regard to the negative conclusion adopted by the ECSR concerning Articles 5 (the right to organise) and 6.2 (promotion of machinery for voluntary negotiations); and Recommendation RecChS (2001) 2 addressed to Ireland with regard to Article 6.4 (right to hold a negotiating licence).

**Cycle XV-2** – The ECSR published its conclusions concerning Austria, Belgium, Denmark, Finland, France, Greece, Iceland, Italy, the Netherlands, Norway, Poland, Portugal, Spain, Sweden and the United Kingdom in December 2000. The conclusions concerning other states (Cyprus, Germany, Ireland, Luxembourg, Malta, Slovakia and Turkey) will be published shortly.

*The text of these conclusions can be found on the Charter Internet site: [www.humanrights.coe.int](http://www.humanrights.coe.int)*

### Collective complaints

#### Decisions on admissibility

Complaint No. 10, Tehy ry and STTK ry against Finland was declared admissible on 12 February 2001.



It concerns the right to additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations.

*Decisions on the merits*

The ECSR adopted its decisions on the merits of the following complaints:

- European Federation of Employees in Public Services (EUROFEDOP) v. France, No. 2, v. Italy, No. 4 and v. Portugal, No. 5, on 12 December 2000
- International Federation of Human Rights Leagues v. Greece, No. 7, on 12 December 2000

These decisions were transmitted in reports to the Parties and to the Committee of Ministers.

The decisions concerning the following complaints were published:

- No. 2, after adoption by the Committee of Ministers of Resolution No. ResChS (2001) 2 on 7 February 2001
- No. 4, after adoption by the Committee of Ministers of Resolution No. ResChS (2001) 3 on 7 February 2001
- No. 5, after adoption by the Committee of Ministers of Resolution No. ResChS (2001) 4 on 7 February 2001
- No. 6, after adoption by the Committee of Ministers of Recommendation No. RecChS (2001) 1 on 31 January 2001.

*The text of the ECSR's decisions and the Committee of Ministers Resolutions and Recommendations appear, respectively, on the Charter site: [www.humanrights.coe.int](http://www.humanrights.coe.int), and on the Committee of Ministers site: [www.cm.coe.int](http://www.cm.coe.int).*

## **C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**

### **I. State of signatures and ratifications of the Convention and its protocols at 28 February 2001**

<b>Member states</b>	<b>Convention</b>		<b>Protocol No. 1</b>		<b>Protocol No. 2</b>	
	<i>Signed</i>	<i>Ratified</i>	<i>Signed</i>	<i>Ratified</i>	<i>Signed</i>	<i>Ratified</i>
<b>Albania</b>	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96
<b>Andorra</b>	10/09/96	06/01/97	04/11/99	13/07/00	04/11/99	13/07/00
<b>Armenia</b>						
<b>Austria</b>	26/11/87	06/01/89	04/11/93	30/04/96	04/11/93	30/04/96
<b>Azerbaijan</b>						
<b>Belgium</b>	26/11/87	23/07/91	04/11/93	12/09/96	04/11/93	12/09/96
<b>Bulgaria</b>	30/09/93	03/05/94	04/03/97	27/10/97	04/03/97	27/10/97
<b>Croatia</b>	06/11/96	11/10/97	10/05/00	<b>04/11/00</b>	<b>10/05/00</b>	<b>04/11/00</b>
<b>Cyprus</b>	26/11/87	03/04/89	02/02/94	10/09/97	02/02/94	10/09/97
<b>Czech Republic*</b>	23/12/92	07/09/95	28/04/95	07/09/95	28/04/95	07/09/95
<b>Denmark</b>	26/11/87	02/05/89	04/11/93	26/04/94	04/11/93	26/04/94
<b>Estonia</b>	28/06/96	06/11/96	28/06/96	06/11/96	28/06/96	06/11/96
<b>Finland</b>	16/11/89	20/12/90	04/11/93	04/11/93	04/11/93	04/11/93
<b>France</b>	26/11/87	09/01/89	04/11/93	19/08/98	04/11/93	14/08/96
<b>Georgia</b>	16/02/00	20/06/00	16/02/00	20/06/00	16/02/00	20/06/00
<b>Germany</b>	26/11/87	21/02/90	04/11/93	13/12/96	04/11/93	13/12/96
<b>Greece</b>	26/11/87	02/08/91	04/11/93	29/06/94	04/11/93	29/06/94
<b>Hungary</b>	09/02/93	04/11/93	04/11/93	04/11/93	04/11/93	04/11/93
<b>Iceland</b>	26/11/87	19/06/90	08/09/94	29/06/95	08/09/94	29/06/95
<b>Ireland</b>	14/03/88	14/03/88	10/04/96	10/04/96	10/04/96	10/04/96
<b>Italy</b>	26/11/87	29/12/88	30/10/96	08/03/99	30/10/96	08/03/99
<b>Latvia</b>	11/09/97	10/02/98	11/09/97	10/02/98	11/09/97	10/02/98
<b>Liechtenstein</b>	26/11/87	12/09/91	04/11/93	05/05/95	04/11/93	05/05/95
<b>Lithuania</b>	14/09/95	26/11/98	14/09/95	26/11/98	14/09/95	26/11/98
<b>Luxembourg</b>	26/11/87	06/09/88	04/11/93	20/07/95	04/11/93	20/07/95
<b>Malta</b>	26/11/87	07/03/88	04/11/93	04/11/93	04/11/93	04/11/93
<b>Moldova</b>	02/05/96	02/10/97	02/10/97	02/10/97	02/10/97	02/10/97
<b>Netherlands</b>	26/11/87	12/10/88	05/05/94	23/02/95	05/05/94	23/02/95
<b>Norway</b>	26/11/87	21/04/89	04/11/93	04/11/93	04/11/93	04/11/93
<b>Poland</b>	11/07/94	10/10/94	11/01/95	24/03/95	11/01/95	24/03/95
<b>Portugal</b>	26/11/87	29/03/90	03/06/94	20/03/98	03/06/94	03/02/00
<b>Romania</b>	04/11/93	04/10/94	04/11/93	04/10/94	04/11/93	04/10/94
<b>Russia</b>	28/02/96	05/05/98	28/02/96	05/05/98	28/02/96	05/05/98
<b>San Marino</b>	16/11/89	31/01/90	04/11/93	05/12/96	04/11/93	05/12/96
<b>Slovakia*</b>	23/12/92	11/05/94	07/03/94	11/05/94	07/03/94	11/05/94
<b>Slovenia</b>	04/11/93	02/02/94	31/03/94	16/02/95	31/03/94	16/02/95
<b>Spain</b>	26/11/87	02/05/89	21/02/95	08/06/95	21/02/95	08/06/95
<b>Sweden</b>	26/11/87	21/06/88	07/03/94	07/03/94	07/03/94	07/03/94
<b>Switzerland</b>	26/11/87	07/10/88	09/03/94	09/03/94	09/03/94	09/03/94
<b>“The former Yugoslav Republic of Macedonia”</b>	14/06/96	06/06/97	14/06/96	06/06/97	14/06/96	06/06/97
<b>Turkey</b>	11/01/88	26/02/88	10/05/95	17/09/97	10/05/95	17/09/97
<b>Ukraine</b>	02/05/96	05/05/97	26/01/98	**	26/01/98	**
<b>United Kingdom</b>	26/11/87	24/06/88	09/12/93	11/04/96	09/12/93	11/04/96

\* = Date of signature of the convention by the Czech and Slovak Federal Republic.

\*\* = State whose ratification is necessary for the entry into force of the protocol.

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

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was set up under the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. It is composed of persons from a variety of backgrounds: lawyers, medical doctors, prison experts, persons with parliamentary experience, etc. The CPT's task is to examine the treatment of persons deprived of their liberty. For this purpose, it is entitled to visit any place where such persons are held by a public authority; apart from periodic visits, the Committee also organises visits which appear to it to be required in the circumstances (i.e. *ad hoc* visits). The CPT may formulate recommendations to strengthen, if necessary, the protection of persons deprived of their liberty against torture and inhuman or degrading treatment or punishment.

Between 1 November 2000 and 28 February 2001 the CPT carried out visits to the following places and published the following reports:

### Scope of intervention of the CPT

#### Situation at 28 February 2001



Note: This is an unofficial representation of States in Europe. For technical reasons it has not been possible to show the entire territory of certain States.

### Visits

#### The European Committee for the Prevention of Torture announces its visits in 2001

Within the framework of its programme of periodic visits, the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) envisages organising visits to the

following countries during 2001 : Belgium, Georgia, Greece, Malta, Moldova, Russian Federation, Slovenia, Switzerland, Turkey and United Kingdom.

Visits to other countries may be organised in 2001 if circumstances so require.

#### Moldova

(27-30 November 2000)

A delegation of the CPT has carried out a four-day visit to the Transnistrian region of the Republic of Moldova. The CPT's visit began in Tiraspol on 27 November 2000. The Transnistrian region unilaterally declared itself an independent republic in 1991. Negotiations aimed at resolving this situation are still taking place.

The local authorities of the Transnistrian region cooperated fully with the CPT's delegation. In particular, the delegation was granted access to all places of deprivation of liberty which it wished to visit and to all persons deprived of their liberty which it wished to interview. The Moldovan parliamentarian Ilie Ilascu was one of the many prisoners interviewed; he was also medically examined by doctors in the delegation.

The delegation visited the following places of detention: Prison No. 1 (Glinoe), Colony No. 2 (Tiraspol), Colony No. 3 (Tiraspol), Police Headquarters and temporary holding facility (IVS) (Tiraspol).

At the end of its visit to the Transnistrian region of the Republic of Moldova, the delegation held discussions in Tiraspol with the local authorities. Further, immediately after the visit, the delegation met the central authorities in Chişinău.

#### Albania

(4-15 December 2000)

A delegation of the CPT has recently carried out an eleven-day visit to Albania. The visit began on 4 December 2000 and was organised within the framework of the CPT's programme of periodic visits for 2000. It was the Committee's third visit to Albania.

The delegation visited the northern (Shkodër and Burrel) and southern (Vlorë and Berat) regions of Albania. The delegation focused its attention on psychiatric hospitals and on remand facilities under the responsibility of the Ministry of Public Order. The delegation also carried out follow-up visits to Tirana Prison Hospital and to Burrel Prison. Moreover, the delegation examined, for the first time, issues related to the detention of persons in development centres for physically and mentally handicapped children, as well as in military police, border police and customs' establishments.

The delegation visited the following places:

– Establishments under the responsibility of the Ministry of Public Order (Shkodër Police Directorate,

Vlorë Police Directorate, Police Station and Border Police Post, Rinas Airport, Police Station No. 1, Tirana)

– Establishments under the responsibility of the Ministry of Health (Shkodër Psychiatric Hospital, Vlorë Psychiatric Hospital)

– Establishments under the responsibility of the Ministry of Justice (Burrel Prison, Tirana Prison Hospital)

– Establishments under the responsibility of the Ministry of Labour and Social Affairs (Berat Development Centre)

– Establishments under the responsibility of the Ministry of Finance (Customs' Post, Rinas Airport)

– Establishments under the responsibility of the Ministry of Defence (Military Police Post (Unit 1100), Shkodër)

The delegation also held talks with the Director and the Head of the Medical Service at Prison No. 313 in Tirana, as well as with detainees recently placed on remand in that establishment.

At the outset of the visit, the delegation was received by Mr Ilir Gjoni, Minister of Defence, Mr Leonard Solis, Minister of Health, Mr Arben Imami, Minister of Justice, and Mr Bujar Himci, Deputy Minister of Public Order. It also met Mr Petrit Ago, General Director of Customs at the Ministry of Finance and Mrs Natasha HODAJ, General Director of Social Affairs at the Ministry of Labour and Social Affairs.

## **Germany**

*(3-16 December 2000)*

A delegation of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recently carried out a thirteen-day visit to Germany. The visit started in Berlin on 3 December 2000 and was carried out within the framework of the CPT's programme of periodic visits for the year 2000. It was the Committee's fourth visit to Germany, the previous visits having taken place in 1991, 1996 and 1998.

In the course of this visit, the CPT's delegation met Mr Hansjörg Geiger, Secretary of State for Justice (Federal Ministry of Justice), Mr Gustav-Adolf Stange, Secretary of State for Justice and European Affairs (Brandenburg), Ms Margret Schlüter, Secretary of State for Labour, Social Affairs, Health and Women (Brandenburg), Mr Ernst-Hasso Ritter, Secretary of State for Justice (Nordrhine Westphalia), Ms Mathilde Diedrich, Secretary of State for Justice (Saxony Anhalt) as well as senior officials of relevant ministries.

In the framework of the visit, the CPT's delegation followed up a number of issues examined during the previous three visits concerning, in particular, the

treatment of persons deprived of their liberty under the aliens legislation. Issues tackled for the first time in Germany included the treatment of persons placed in forensic psychiatric institutions and of persons living in homes for the elderly.

The delegation visited the following places:

– Baden Württemberg (Forensic Psychiatric Department and General Department (Unit 33), Nordbaden Psychiatric Centre, Wiesloch)

– Bavaria (Police Headquarters, Ettstrasse 2, Munich (follow-up visit); Forensic Psychiatric Clinic, District Hospital, Straubing)

– Berlin (Regional Criminal Police Detention Centre, Tempelhofer Damm 12; Police Detention Centre, Directorate 1, Pankstrasse 29; German Red Cross Home for Elderly Persons, Gerichtstrasse 79-83)

– Brandenburg (Police Headquarters, Bonnasckenplatz 2-3, Cottbus; Detention Centre for Foreigners, Eisenhüttenstadt; Federal Border Police Station, Guben; Home for Elderly Persons, Wichernhaus, Cottbus)

– Hessen (Frankfurt am Main Airport (follow-up visit); Police Headquarters, Friedrich-Ebert-Anlage 11, Frankfurt am Main; Police Detention Centre, Klapperfeldgasse, Frankfurt am Main; Police Station 4, Central Railway Station, Frankfurt am Main; Federal Border Police Station, Central Railway Station, Frankfurt am Main)

– Nordrhine Westphalia (Detention Centre for Foreigners, Büren)

– Saxony Anhalt (Juvenile Prison, Halle; Police Station Halle-Neustadt, Neustädter Passage 15a, Halle)

Moreover, the delegation went to Straubing Prison (Bavaria) and the Forensic Psychiatric Department of the Brandenburg/Havel Regional Hospital (Brandenburg), in order to interview persons deprived of their liberty.

## **Turkey: hunger strikes**

*(10-15 December 2000)*

A considerable number of prisoners in Turkey have recently been on hunger strike, in a campaign of protest centred on the F-type prison project. That project forms part of the Turkish authorities' plans to introduce smaller living units for prisoners in the framework of Turkish prison reform. On 6 December 2000, the Turkish Government invited the CPT to carry out a visit to Turkey, in order to contribute to efforts under way aimed at finding a solution capable of bringing the hunger strikes to an end.

The CPT accepted the Turkish Government's invitation and a delegation of the Committee arrived in Turkey on 10 December 2000.

The delegation held detailed discussions with the Turkish authorities directly responsible for issues concerning the hunger strikes, including the Minister of Justice, Mr Hikmet Sami Türk. It also had consultations with persons involved in attempts to reach a mediated solution; they included, in particular, members of the Human Rights Inquiry Commission of the Turkish Grand National Assembly and a group of well-known artists and intellectuals. Further, the delegation held talks at Istanbul Prison and Detention House (Bayrampasa) with representatives of the principal group of prisoners taking part in the hunger strikes, and it spoke with prisoners who were on hunger strike.

On 13 and 14 December 2000, a mediatory team, led by a member of the Human Rights Inquiry Commission of the Turkish Grand National Assembly (Mr Mehmet Bekaroglu) and including representatives of various non-governmental organisations, held intensive talks with representatives of the principal group of prisoners taking part in the hunger strikes. However, the talks were suspended during the night of 14 to 15 December 2000, without a solution having been found.

On 15 December 2000, the CPT's delegation had further contacts with the prisoner representatives and members of the mediatory team, but was not able at that juncture to identify a means of bringing the hunger strikes to an end. Consequently, the delegation decided to interrupt its visit on 16 December 2000.

**Turkey: hunger strikes and prison interventions: continuation of the visit by the CPT**  
*(10-15 January 2001)*

The CPT subsequently learned that during the morning of 19 December 2000, security forces intervened in the prisons where hunger strikes are taking place. In the course of that operation, which ended on 22 December 2000, 32 persons died and a large number of persons were injured. More than 1000 prisoners were transferred to other establishments and, in particular, to three F-type prisons brought into service ahead of schedule. Notwithstanding the interventions, many of the prisoners concerned remain on hunger strike. In the light of these developments, the CPT's delegation returned to Turkey and continued its visit from 10 to 15 January 2001.

The CPT's delegation sought information on the prison interventions and on subsequent inquiries and investigations. The delegation also examined the situation in the establishments – and in particular, the F-type prisons – to which prisoners have been transferred after the interventions, as well as the approach being followed vis-à-vis prisoners who remain on hunger strike. Further, it continued to explore possible means of bringing the hunger strikes to an end.

The delegation had detailed discussions with officials of the Ministries of Justice, the Interior and Health responsible for issues concerning the hunger

strikes and the prison interventions, and it held talks with the Minister of Justice, Mr Hikmet Sami Türk. The delegation also consulted with members of the Human Rights Inquiry Commission of the Turkish Grand National Assembly, including the Commission's President, Mr Hüseyin Akgül, as well as with other persons who had been involved in attempts to reach a mediated solution to the hunger strikes. Further, the delegation met again representatives of the principal group of prisoners taking part in the hunger strikes, and it interviewed a considerable number of prisoners who had been transferred in the wake of the prison interventions.

The delegation visited the following establishments: (Bakirköy Prison for Women and Juveniles (Istanbul), Edirne F-type Prison, Kocaeli (Kandira) F-type Prison, Sincan F-type Prison, Ankara – Numune Hospital, Cerrahpasa Hospital (Istanbul), Sagmalcilar Hospital (Istanbul)).

The CPT continues to monitor closely the situation regarding the hunger strikes in Turkey and maintains an on-going dialogue with the Turkish authorities on this subject. The CPT may, if it considers it necessary, carry out further visits to Turkey in order to pursue issues related to this matter.

**United-Kingdom**  
*(4-17 February 2001)*

A delegation of the CPT recently carried out a thirteen-day visit to the United Kingdom. The visit began on 4 February 2001 and was organised within the framework of the CPT's programme of periodic visits for 2001. It was the Committee's fourth periodic visit to the United Kingdom.

In the course of its visit, the CPT's delegation met Paul Boateng, Deputy Home Secretary, Minister of State with responsibility for prison matters, Barbara Roche, Minister of State with responsibility for immigration, Philip Hunt, Parliamentary Secretary of State in the Department of Health with responsibility for prison health care and Martin Narey, Director General of the Prison Service, as well as David Ramsbotham, Chief Inspector of Prisons and Stephen Shaw, Prisons Ombudsman.

The CPT's delegation paid particular attention to the treatment of young persons deprived of their liberty. The visit also marked the first occasion for a CPT delegation to visit Wales and to examine the treatment of persons held in a military establishment in the United Kingdom.

The delegation visited the following places:

- Police establishments (Colchester Police Station, Cardiff Central Police Station)
- Court cells (Thames Magistrates Court, London; Highbury Corner Magistrates Court, London; Central Criminal Court, Old Bailey, London)

– Prisons (Parc Prison, Bridgend (Wales); Pentonville Prison, London; Woodhill Prison, Milton Keynes; Young Offender Institution and Remand Centre, Feltham)

– Detention facilities for children (Medway Secure Training Centre, Rochester; Hillside Secure Centre, Neath (Wales))

– Military detention facilities (Military Corrective Training Centre, Colchester)

## Switzerland

(5-16 February 2001)

A delegation of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recently carried out an eleven-day visit to Switzerland. The visit started in Bern on 5 February 2001 and was carried out within the framework of the CPT's programme of periodic visits for the year 2001. It was the Committee's third visit to Switzerland, the previous visits having taken place in 1991 and 1996.

In the course of this third visit, the delegation met Ms Ruth Metzler-Arnold, Federal Counsellor, Head of the Federal Department of Justice and Police, as well as several senior officials of the various civil and military departments concerned. In addition, the delegation met Mr Claude Grandjean, State Counsellor, Head of the Department of Justice, Police and Military Affairs of the Canton of Fribourg, Ms Karin Keller-Sutter, State Counsellor, Head of the Department of Justice and Police of the Canton of Saint Gall, as well as senior officials of the various Cantons visited.

In the framework of the visit, the delegation followed up a certain number of issues examined during the two previous visits. Furthermore, it visited for the first time detention facilities of the Border Guards Corps, a home for juveniles, a military institution, and a private psychiatric clinic. Finally, at Zürich-Kloten International Airport, the delegation examined in detail the procedures and means of restraint applied in the course of expulsions by air of foreign nationals.

The delegation visited the following places:

– Canton of Basel-City (Detention facilities of the Border Guards Corps at the Basel/*Weil am Rhein* border post)

– Canton of Bern (Municipal Police Headquarters, Bern<sup>1</sup>; Municipal Police Station at Bern Railway Station; Wagon for the transportation of detained persons (“Train-Street”) at Bern Railway Station, “Transport Station” at Bern Regional Prison, Home for juveniles, Prêles)

– Canton of Fribourg (Cantonal Police Headquarters, Schönberg Gendarmerie Post, Fribourg Central Prison, La Poya Military Barracks)

– Canton of Saint Gall (Municipal Police Headquarters, Saint Gall District Prison)

– Canton of Thurgovia (Psychiatric Clinic, Littenheid)

– Canton of Zürich (Transit zone at Zürich-Kloten International Airport (including the Accommodation Facilities for Asylum Seekers<sup>1</sup> and the Centre for Inadmissible Passengers – INADS), Police facilities, Zürich-Kloten International Airport<sup>1</sup>, Prison No. 2, Zürich-Kloten International Airport, Cantonal Police Headquarters<sup>1</sup>, Municipal Police Station at Aussersihl)

The delegation also met Mr Philippe de Sinner, Director of the Swiss Training Centre for Prison Staff in Fribourg.

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1 : Follow-up visit

## Publication of CPT reports

*Under Article 11 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the information gathered by the Committee in relation to a visit, its report and its consultations with the State concerned are confidential. However, the State may agree to lift the rule of confidentiality.*

The **Turkish** Government authorised the publication of the report drawn up by the CPT after its visit to Turkey from 27 February to 3 March 1999 and of the Turkish Government's responses (CPT/Inf (2000) 17 and CPT/Inf (2000) 18). On the same day, it also authorised the publication of the preliminary observations made by the delegation of the CPT after its visit to Turkey from 16 to 24 July 2000, together with their response to those observations (CPT/Inf (2000) 19).

The **Moldovan** Government decided to make public its report drawn up by the CPT after its visit to Moldova in October 1998 and of the response (CPT/Inf (2000) 20 and CPT/Inf (2000) 21).

The **Turkish Government** has authorised the publication of the report of the CPT on its visit to Turkey from 19 to 23 August 1996 and of the Turkish Government's response (CPT/Inf (2001) 1).

*CPT documents are available from the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, Council of Europe, F-67075 Strasbourg Cedex or on the CPT's Internet site: <http://www.cpt.coe.int>, [cptdoc@coe.int](mailto:cptdoc@coe.int).*

### 3. Members of the CPT at 28 February 2001 by order of precedence

Mrs Silvia Casale	<i>British President</i>
Mrs Ingrid Lycke Ellingsen	<i>Norwegian 1st Vice-President</i>
Mr Volodymyr Yevintov	<i>Ukrainian 2nd Vice-President</i>
Mr Arnold Oehry	<i>Liechtensteiner</i>
Mr Leopoldo Torres Boursault	<i>Spanish</i>
Mr Safa Reisoğlu	<i>Turkish</i>
Mr Ivan Zakine	<i>French</i>
Mrs Gisela Perren-Klingler	<i>Swiss</i>
Mr John Olden	<i>Irish</i>
Mr Florin Stănescu	<i>Romanian</i>
Mr Mario Benedettini	<i>San Marinese</i>
Mrs Jagoda Poloncová	<i>Slovakian</i>
Mrs Christina Doctare	<i>Swedish</i>
Mr Adam Łaptaś	<i>Polish</i>
Mr Zdenek Hájek	<i>Czech</i>
Mrs Emilia Drumeva	<i>Bulgarian</i>
Mr Pieter Reinhard Stoffelen	<i>Dutch</i>
Mr Ole Vedel Rasmussen	<i>Danish</i>
Mrs Renate Kicker	<i>Austrian</i>
Mr Pierre Schmit	<i>Luxemburger</i>
Mr Andres Lehtmets	<i>Estonian</i>
Mr Davor Strinović	<i>Croatian</i>
Mr Aurel Kistruga	<i>Moldovan</i>
Mr Rudolf Schmuck	<i>German</i>
Mr Aleš Butala	<i>Slovene</i>
Mr Yuri Kudryavtsev	<i>Russian</i>
Mrs Veronica Pimenoff	<i>Finnish</i>
Ms Maria Teresa Pizarro Beleza	<i>Portuguese</i>
Mr Fatmir Braka	<i>Albanian</i>
Mr Nikola Matovski	<i>citizen of “the Former Yugoslav Republic of Macedonia”</i>
Mr Petros Michaelides	<i>Cypriot</i>
Mr Marc Nève	<i>Belgian</i>
Mr Eugenijus Gefenas	<i>Lithuanian</i>
Mr Antoni Aleix Camp	<i>Andorran</i>
Mr Mario Felice	<i>Maltese</i>
M. Pétur Hauksson	<i>Icelandic</i>
Mrs Ioanna Babassika	<i>Greek</i>
M. Mauro Palma	<i>Italian</i>
Mrs Anhelita Kamenska	<i>Latvian</i>

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

### **I. State of signatures and ratifications of the convention at 28 February 2001**

<b>Member states</b>	<b>Framework Convention</b>		<b>First report</b>	
	<i>Signed</i>	<i>Ratified</i>	<i>date due</i>	<i>date received</i>
Albania	29/06/95	28/09/99	01/01/01	
Andorra				
Armenia	25/07/97	20/07/98	01/11/99	
Austria	01/02/95	31/03/98	01/07/99	<b>15/11/00</b>
Azerbaijan	Accession	26/06/00		
Belgium				
Bulgaria	09/10/97	07/05/99	01/09/00	
Croatia	06/11/96	11/10/97	01/02/99	16/03/99
Cyprus	01/02/95	04/06/96	01/02/99	12/02/99
Czech Republic	28/04/95	18/12/97	01/04/99	01/04/99
Denmark	01/02/95	22/09/97	01/02/99	06/05/99
Estonia	02/02/95	06/01/97	01/02/99	22/12/99
Finland	01/02/95	03/10/97	01/02/99	16/02/99
France				
Georgia	21/01/00			
Germany	11/05/95	10/09/97	01/02/99	
Greece	22/09/97			
Hungary	01/02/95	25/09/95	01/02/99	21/05/99
Iceland	01/02/95			
Ireland	01/02/95	07/05/99	01/09/00	
Italy	01/02/95	03/11/97	01/03/99	03/05/99
Latvia	11/05/95			
Liechtenstein	01/02/95	18/11/97	01/03/99	03/03/99
Lithuania	01/02/95	23/03/00	01/07/01	
Luxembourg	20/07/95			
Malta	11/05/95	10/02/98	01/06/99	27/07/99
Moldova	13/07/95	20/11/96	01/02/99	29/06/00
Netherlands	01/02/95			
Norway	01/02/95	17/03/99	01/07/00	
Poland	01/02/95	<b>20/12/00</b>	01/04/02	
Portugal	01/02/95			
Romania	01/02/95	11/05/95	01/02/99	24/06/99
Russia	28/02/96	21/08/98	01/12/99	08/03/00
San Marino	11/05/95	05/12/96	01/02/99	03/02/99
Slovakia	01/02/95	14/09/95	01/02/99	04/05/99
Slovenia	01/02/95	25/03/98	01/07/99	<b>29/11/00</b>
Spain	01/02/95	01/09/95	01/02/99	<b>19/12/00</b>
Sweden	01/02/95	09/02/00	01/06/01	
Switzerland	01/02/95	21/10/98	01/02/00	
“The former Yugoslav Republic of Macedonia”	25/07/96	10/04/97	01/02/99	
Turkey				
Ukraine	15/09/95	26/01/98	01/05/99	02/11/99
United Kingdom	01/02/95	15/01/98	01/05/99	26/07/99
<b>Non-member state</b>	<b>Framework Convention</b>		<b>First report</b>	
Bosnia-Herzegovina	Accession	24/02/00	01/06/01	

*The Framework Convention is open for signature by the member states and by any other state so invited by the Committee of Ministers.*

## **2. Reservations and declarations**

### *Poland*

*Declaration contained in a Note Verbale, handed in at the time of deposit of the instrument of ratification on 20 December 2000 – Or. Fr.*

Taking into consideration the fact that the Framework Convention for the Protection of National Minorities contains no definition of the national minorities notion, the Republic of Poland declares, that it understands this term as national minorities residing within the territory of the Republic of Poland at the same time whose members are polish citizens.

*Declaration contained in a Note Verbale, handed in at the time of deposit of the instrument of ratification on 20 December 2000 – Or. Fr.*

The Republic of Poland shall also implement the Framework Convention under Article 18 of the Convention by conclusion of international agreements mentioned in this Article, the aim of which is to protect national minorities in Poland and minorities or groups of Poles in other States.



## E. European Convention on Transfrontier Television

### I. State of signatures and ratifications of the Convention at 28 February 2001

Member states	Convention	
	Signed	Ratified
Albania	02/07/99	
Andorra		
Armenia		
Austria	05/05/89	07/08/98
Azerbaijan		
Belgium		
Bulgaria	20/05/97	03/03/99
Croatia	07/05/99	
Cyprus	03/06/91	10/10/91
Czech Republic	07/05/99	
Denmark		
Estonia	09/02/99	24/01/00
Finland	26/11/92	18/08/94
France	12/02/91	21/10/94
Georgia		
Germany	09/10/91	22/07/94
Greece	12/03/90	
Hungary	29/01/90	02/09/96
Iceland		
Ireland		
Italy	16/11/89	12/02/92
Latvia	28/11/97	26/06/98
Liechtenstein	05/05/89	12/07/99
Lithuania	20/02/96	27/09/00
Luxembourg	05/05/89	
Malta	26/11/91	21/01/93
Moldova	03/11/99	
Netherlands	05/05/89	
Norway	05/05/89	30/07/93
Poland	16/11/89	07/09/90
Portugal	16/11/89	
Romania	18/03/97	
Russia		
San Marino	05/05/89	31/01/90
Slovakia	11/09/96	20/01/97
Slovenia	18/07/96	29/07/99
Spain	05/05/89	19/02/98
Sweden	05/05/89	
Switzerland	05/05/89	09/10/91
“The former Yugoslav Republic of Macedonia”		
Turkey	07/09/92	21/01/94
Ukraine	14/06/96	
United Kingdom	05/05/89	09/10/91

Non-member state	Convention	
	Signed	Ratified
Holy See	17/09/92	07/01/93

*The Convention is open for signature by the member states, by other States Party to the European Cultural Convention, and by the European Economic Community.*

**For other activities concerning the Media Section,  
see Part II.C, Directorate General of Human Rights.**

## II. Other human rights activities of the Council of Europe

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### A. Committee of Ministers

#### European Ministerial Conference on Human Rights

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*Rome, 3-4 November 2000*

On the occasion of the 50th anniversary of the European Convention on Human Rights, the European Ministerial Conference on Human Rights brought together ministers responsible for human rights from over fifty states, in Europe and beyond. The Conference adopted a declaration and two resolutions, which will form the background for the Council of Europe's policy in the field of human rights protection in the years to come. The complete texts were published in *Human rights information bulletin, No. 50*, the special edition for the 50th anniversary of the Convention.

#### **Declaration: The European Convention on Human Rights at 50: What future for the protection of human rights in Europe?**

In the Political Declaration the heads of delegation of the forty-one member states and the nine non-member states attending the ministerial conference pay a clear tribute to the real progress achieved in Europe in the field of human rights protection over the last fifty years; but they also deplore the fact that mass violations of the most basic human rights continue to be committed throughout the world, including Europe. They stress the primary responsibility of member states to ensure respect for human rights by constantly ensuring that their legislation and practice comply with the European Convention on Human Rights and scrupulously enforcing the judgments of the European Court of Human Rights.

In addition, they reaffirm the central role which the Convention must continue to play as a constitutional instrument for European public order, as the precondition for the continent's democratic stability. The declaration welcomes the growing interest of the European Union in human rights as shown by the recent drafting of a Charter of Fundamental Rights. But it stresses the need to identify the means of avoiding any situation of competition, or even conflict, between two different systems for human rights protection, as

this would be liable to undermine overall protection for human rights in Europe.

#### **Resolution I: Institutional and functional arrangements for the protection of human rights at national and European level**

Together with the Political Declaration, the two political resolutions constitute the backdrop for the Council of Europe's policy in the field of human rights protection for the next few years.

Resolution I stresses the need to improve the implementation of the Convention in member states; to guarantee the efficacy of the European Court of Human Rights (through early identification of the most urgent measures needed to assist the Court in the discharge of its duties and launching in-depth reflection on possible solutions for guaranteeing the Court's long-term efficacy); and to improve the machinery for Committee of Ministers' supervision of the execution of the judgments of the Court.

#### **Resolution II: Respect for human rights, a key factor for democratic stability and cohesion in Europe: current issues**

Resolution II describes concrete measures for improving the efficiency of the Council of Europe's response to serious mass violations of human rights, and firmly condemns any use of torture, systematic rape and extra-judicial executions. Furthermore, it urges member states to abolish the death penalty in both wartime and peacetime.

Recurrent cases of discrimination against migrants, refugees, stateless persons and asylum-seekers on the grounds of their national, ethnic or cultural origin, their language or their religion, whether or not they belong to a national minority, are mentioned, as well as the situation of Roma/Gypsies.

The resolution also stresses the adoption by the Committee of Ministers of Protocol No. 12 to the Convention, which introduces a general prohibition of discrimination, and invites the States Parties to the Convention to consider signing this protocol.

## Recommendations to member states

### Independence of regulatory authorities for the broadcasting sector

*Recommendation Rec (2000) 23, 20 December 2000*

The Committee of Ministers proposes that governments of member states should adopt a number of measures to protect the independence of broadcasting regulatory authorities from both political and economic influences.

### Development of European studies for democratic citizenship

*Recommendation Rec (2000) 24, 20 December 2000*

The Committee of Ministers believes that education plays an essential role both in strengthening genuine democracy based on pluralism and tolerance and in asserting human rights and fundamental freedoms. In this recommendation it lays down some general principles covering the teaching of European studies.

### Social workers

*Recommendation Rec (2001) 1, 17 January 2001*

The Committee of Ministers recalls in particular the Final Declaration of the 2nd Summit of the Heads of State and Government of the Council of Europe (October 1997), in which it is recognised that “social cohesion is one of the foremost needs of the wider Europe and should be pursued as an essential complement to the promotion of human rights and dignity”. It recognises that social work promotes social welfare and sets out a number of principles aimed at helping social workers in making an essential contribution to the promotion of social cohesion

### Cost-effective design and re-design of court systems and legal information systems

*Recommendation Rec (2001) 2, 28 February 2001*

Modern information technology has become an indispensable tool for the administration of justice, contributing to the effective administration of the state, which is necessary for a well-functioning democracy. The Committee of Ministers therefore proposes certain principles and guidelines to assist the competent authorities in the legal sector in their work.

### The delivery of court and other legal services to the citizen through the use of new technologies

*Recommendation Rec (2001) 3, 28 February 2001*

The Committee of Ministers recommends member states to disseminate and apply certain principles and guidelines concerning the use of new information technology in the field of administration of justice, with a view to facilitating access to the law as required by the European Convention on Human Rights.

## Resolutions

### Accession of Armenia and Azerbaijan

*Resolutions Res (2000) 13 and 14, 9 November 2000*

The Committee of Ministers invites Armenia and Azerbaijan to join the Council of Europe, believing that the two countries are willing to comply with Council of Europe standards. It decided to monitor their democratic progress on a regular basis, in the light of the commitments which they have given.

### Federal Republic of Yugoslavia

*Resolution Res (2000) 15, 22 November 2000*

The Committee of Ministers invites the Parliamentary Assembly to express its opinion on the request for membership of the Council received from the Federal Republic of Yugoslavia. It said there was a consensus among the Council’s member states in favour of the accession of the Federal Republic of Yugoslavia, which has declared its intention to give practical effect to the obligations stemming from the European Convention on Human Rights throughout the whole of its territory.

## Declarations

### Declaration: “For a European death-penalty-free area”

*9 November 2000*

We, the foreign ministers of the Council of Europe’s member states, assembled in Strasbourg for our 107th session,

1. Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;
2. Recalling the European Convention on Human Rights and particularly Protocol No. 6 thereto concerning the abolition of the death penalty;
3. Reaffirming the call for the universal abolition of the death penalty contained in the Final Declaration of the Second Summit of Heads of State and Government of the Council of Europe (10-11 October 1997);
4. Having regard to Resolution No. 2 on respect for human rights which, *inter alia*, requests that the member states ratify as soon as possible, if they have not yet done so, Protocol No. 6, and in the meantime, respect strictly the moratoria on executions adopted by the European Ministerial Conference on Human Rights on the occasion of the 50th Anniversary of the European Convention on Human Rights (Rome, 3-4 November 2000);
5. Welcoming the significant progress made in Europe and the world towards the abolition of the

death penalty and stressing the importance of the resolutions adopted by the United Nations Commission on Human Rights on this matter;

6. Reminding states that have applied or wish to apply for membership that a commitment to abolish the death penalty within a precise time-frame is a basic condition for accession;
7. Welcoming the fact that 39 member states, i.e. 11 more than at the time of the Second Summit, have abolished the death penalty and noting that two member states have been observing for a long time a moratorium on executions,

Declare as follows:

The territory of the 41 member states of the Council of Europe thus constitutes an area in which the death penalty is not carried out;

This is a step towards our common goal of a death penalty-free area to be achieved by the abolition of the death penalty in all member states as called for in the above-mentioned Resolution No. 2 of the Rome European Ministerial Conference on Human Rights.

### **Declaration on cultural diversity**

*7 December 2000*

#### ***Preamble***

The Committee of Ministers,

Recognising that respect for cultural diversity is an essential condition of human society;

Recognising that the development of new information technologies, globalisation and evolving multi-lateral trade policies have an impact on cultural diversity;

Reaffirming that to sustain, protect and promote cultural co-operation and democratic norms and structures in European societies is a central task of the Council of Europe;

Recalling that cultural diversity has always been a dominant European characteristic and a fundamental political objective in the process of European construction, and that it assumes particular importance in the building of an information and knowledge based society in the 21st century;

Acknowledging that all democratic societies based on the rule of law have in the past developed measures to sustain and protect cultural diversity within their cultural and media policies;

Aware of the tradition of the Council of Europe to protect and foster cultural diversity and recalling, in this context, the instruments already developed by the Organisation on the basis of the European Convention on Human Rights and the European Cultural Convention;

Emphasising that, in the context of global market influences on cultures and cultural exchange, modern

democratic states have a new challenge: the development of policies for assuring the recognition and expression of forms of cultural diversity coexisting within their jurisdictions;

Recalling the commitments of the member states of the Council of Europe to defend and promote media freedoms and media pluralism as a basic precondition for cultural exchange, and affirming that media pluralism is essential for democracy and cultural diversity;

Recalling in this respect the important contribution made by public service broadcasters;

Convinced that all member states and other States Party to the European Cultural Convention must confront this challenge from a culturally distinct perspective, but that the shared global context for development requires the elaboration of a set of principles which will provide a coherent framework for sustaining and enabling cultural diversity at all levels;

Affirms that the legitimate objectives of member states to develop international agreements for cultural co-operation, which promote cultural diversity, must be respected,

Declares the following:

#### ***1. Cultural diversity***

- 1.1. Cultural diversity is expressed in the co-existence and exchange of culturally different practices and in the provision and consumption of culturally different services and products;
- 1.2. Cultural diversity cannot be expressed without the conditions for free creative expression, and freedom of information existing in all forms of cultural exchange, notably with respect to audiovisual services;
- 1.3. Sustainable development as defined in relation to cultural diversity, assumes that technological and other developments, which occur to meet the needs of the present, will not compromise the ability of future generations to meet their needs with respect to the production, provision and exchange of culturally diverse services, products and practices.

#### ***2. Cultural and audiovisual policies for sustainable cultural diversity in a global world***

- 2.1. Cultural and audiovisual policies, which promote and respect cultural diversity, are a necessary complement to trade policies;
- 2.2. Cultural diversity has an essential economic role to play in the development of the knowledge economy. Strong cultural industries which encourage linguistic diversity and artistic expression, when reflecting genuine diversity, have a positive impact on pluralism, innovation, competitiveness and employment;
- 2.3. Culturally diverse forms of production and practices should not be limited but enhanced by technological developments;

- 2.4. Wide distribution of diverse cultural products and services, and exchange of cultural practices in general, can stimulate creativity, enhance access to and widen the provision of such products and services;
- 2.5. Public service broadcasting plays an important role for the safeguarding of cultural diversity;
- 2.6. Education, training of professionals and users of new services, and reinforcement of cultural and audiovisual production are notable factors in the promotion of cultural diversity.

### 3. *Sustaining and enabling cultural diversity*

- 3.1. Member states are called upon to examine ways of sustaining and promoting cultural and linguistic diversity in the new global environment, at all levels;
- 3.2. Member states are urged to pay particular attention to the need to sustain and promote cultural diversity, in line with the relevant Council of Europe instruments, in other international fora where they might be called on to undertake commitments which might prejudice these instruments;
- 3.3. The competent organs of the Council of Europe are requested to identify those aspects of cultural policy which are in need of special consideration in the context of the new global economy, and to elaborate a catalogue of measures, which may be useful to member states in their quest to sustain and enable cultural diversity;
- 3.4. The Committee of Ministers agrees to review the situation at regular intervals.

## Replies by the Committee of Ministers to recommendations of the Parliamentary Assembly

### **Conflict in the Chechen Republic: recent developments**

*Reply to Recommendation 1478 (2000)*

The Committee of Ministers recognises that a number of new steps have been taken by the Russian Federation to improve the situation in Chechnya. But these are insufficient, and it is necessary and urgent to seek a political solution for Chechnya, respecting the sovereignty and territorial integrity of the Russian Federation. The Committee of Ministers condemns all acts of terrorism perpetrated in Chechnya, as elsewhere, and calls for the immediate release of all hostages detained in the Chechen Republic.

The Committee of Ministers has continued to follow developments in Chechnya very closely on the basis of the information contained in the monthly interim reports by the Secretary General on the presence of the experts of the Council of Europe in the Office of the Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms in the Chechen Republic, the recommendations adopted at the outcome of the parliamen-

tary hearings of the State Duma and other relevant information.

The Committee of Ministers recalls the efforts being pursued by the different bodies involved in trying to resolve the conflict, in particular the results obtained by the Kalamanov Office, and confirms its expectations regarding action by the National Public Commission for the investigation of offences and the observance of human rights in the North Caucasus. It also attaches great importance to co-operation and assistance programmes existing between the Council of Europe and the Russian Federation.

### **Mothers and babies in prison**

*Reply to Recommendation 1469 (2000)*

The Committee of Ministers shares the Assembly's concern at the difficult issues raised in connection with mothers and babies/young children in prison. It recalls the recommendations it has adopted promoting sanctions and measures other than imprisonment, which should be seen as a last resort. It agrees that prison staff responsible for supervising mothers who are imprisoned with their young children should benefit from special training for this task, and that family visits to prisoners should command high priority for resources and should take place in favourable conditions.

The Committee of Ministers draws the attention of member governments to the Assembly's recommendation, and declares itself ready to assess the progress made in this field of activities.

### **Violence against women in Europe**

*Reply to Recommendation 1450 (2000)*

The Committee of Ministers is continuing its efforts in this sphere through the activities of the Steering Committee for Equality between Women and Men (CDEG). This committee's opinion on the recommendation gives an excellent overview of the work in progress in this field, and is appended to the Committee of Ministers' reply. In addition, the CDEG organised a seminar to combat trafficking in human beings in south-east Europe at which, basing their work on Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation, the participants adopted the outline of a regional action plan on the subject. And an information forum took place on human rights of girls and young women in Europe, which produced a series of recommendations for stepping up efforts to combat this phenomenon.

### **Role of women in the field of science and technology**

*Reply to Recommendation 1435 (1999)*

The Committee of Ministers recognises that several inequalities concerning the participation of men

and women in scientific and technological development continue to exist in Europe. Among the work undertaken to counter this problem may be mentioned: Recommendation No. R (98) 3 on access to higher education; Recommendation Rec (2000) 8 on the research mission of universities; the work of the Higher Education and Research Committee; and the project "Learning and teaching in the communication society" to be conducted by a group of specialists which will be created in 2001.

### **Clandestine migration from the south of the Mediterranean into Europe**

*Reply to Recommendation 1449 (2000)*

The Committee of Ministers informs the Assembly that the new Committee of Experts on Migration Management Strategy has begun looking into the underlying causes of illegal immigration so as to suggest ways of preventing it. It believes that integrated, orderly migration management respectful of the individual's fundamental rights is the key requirement in any policy of migration management. Such management depends on co-ordination between Council of Europe member states and migrants' countries of origin so as to prevent illegal migration and its causes. During 2001, the European Committee on Migration will continue work aimed at adopting guidelines for the prevention of illegal migration, explore the scope for co-operation between Council of Europe member states and the countries of the southern shore, and reinforce co-operation with the European Union in the field.

### **Restrictions on asylum in the member states of the Council of Europe and the European Union**

*Reply to Recommendation 1440 (2000)*

The Committee of Ministers notes that the *Ad Hoc* Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR) continues its work on asylum and immigration issues in the pan-European framework, so as to develop principles which are common to all member states. It cites the recommendations it has recently adopted in this field – which draw particularly on the work of the Assembly – together with other pertinent instruments. It emphasises that the Geneva Convention of 1951 relating to the Status of Refugees is, and must remain, the cornerstone of asylum. The incorporation of the right of asylum in the 1950 European Convention on Human Rights, or the drafting of a European convention on the harmonisation of policies on the right of asylum in Europe would not currently receive the consent of all member states. Furthermore, while the right of asylum as such is effectively provided for neither in the European Convention on Human Rights nor in its protocols, the Convention nevertheless does grant significant protection to asylum-seekers, as shown by the case-law relating in particular to Articles 3 (prohibition of torture), 5 (right to liberty and security), 8

(right to respect for private and family life) and 13 (right to an effective remedy).

### **Access to information, public participation in environmental decision-making and access to justice**

*Reply to Recommendation 1430 (1999)*

The Committee of Ministers shares the Assembly's opinion that the access of the public to environmental information and public participation in environmental decision-making constitute legitimate rights of European citizens. In this respect the Committee of Ministers refers to the evolving case-law of the European Court of Human Rights. It considers that the principles of the Århus Convention are already taken into account when it prepares legal instruments with implications for the environment, and are implemented, *inter alia*, through the Bern Convention.

### **Future of senior citizens: protection, participation and promotion**

*Reply to Recommendation 1428 (1999)*

The Committee of Ministers informs the Assembly that it has brought the recommendation to the attention of the governments of member states, and assigned *ad hoc* terms of reference to the competent committee, namely the European Committee for Social Cohesion (CDCS), to give its opinion on the recommendation. This opinion is appended to the Committee of Ministers' reply.

### **Control of internal security services in Council of Europe member states**

*Reply to Recommendation 1402 (1999)*

The Committee of Ministers recalls the substantial case-law of the European Court of Human Rights in the protection of human rights with respect to the powers and responsibilities of state security services.

It does not consider it appropriate to draw up a framework convention, as suggested by the Parliamentary Assembly. On the other hand, it feels that, in view of past work on law enforcement agencies, the feasibility of drawing up guidelines on internal security services might be discussed. The Committee of Ministers therefore decides to consider setting up a new committee of experts responsible for studying the role and responsibilities of internal security services.

### **107th session of the Committee of Ministers**

*9 November 2000*

The session opened with an exchange of views with President Koštunica on the positive developments in his country. The Ministers assured President

Koštica of their determination to pursue co-operation activities to accelerate the establishment and consolidation of democracy, respect for human rights and the rule of law in close co-operation with the relevant international organisations and institutions, in particular the European Union, the OSCE and the United Nations, and taking account of the projects developed within the Stability Pact for South Eastern Europe. The Pact was considered as an appropriate framework for an early and progressive integration of the Federal Republic of Yugoslavia (FRY) into the region and, eventually, into European structures, especially now that FRY had become a participant.

The Ministers welcomed the prospect of accession of the Federal Republic of Yugoslavia to the Council of Europe, once all the necessary conditions have been fulfilled.

The exchange of views was followed by a discussion on the Council of Europe's contribution to the strengthening of democratic stability in South-East Europe, including Moldova, and in the Caucasus. The same subjects were discussed with the Parliamentary Assembly in the framework of the Joint Committee. The Ministers referred to the need to increase the contribution to democratic stability in South-East Europe by support for the efforts of the Republic of Moldova to strengthen the respect for human rights, democracy and rule of law in the country as a whole. They recalled, in this context, the role of the Venice Commission in the framework of the existing negotiation format, involving the OSCE and the mediator States - the Russian Federation and Ukraine -, in contributing in the elaboration of a statute of the Eastern region of the Republic of Moldova (Transnistria), on the basis of the sovereignty and territorial integrity of the country.

Regarding the South Caucasian candidate states, the Ministers took account, with some concern, of the situation in respect to the meeting of the standards of the Council of Europe, as required from both countries, including the elections held in Azerbaijan on 5 November 2000. The Ministers decided to invite simultaneously Armenia and Azerbaijan to accede to the Organisation (and took note with satisfaction of statements made by the two Ministers for Foreign Affairs of these countries) and stated that the date for the accession of the two States would be considered at a meeting of the Ministers' Deputies in January 2001. They emphasised that Armenia and Azerbaijan should continue to strengthen their democratic institutions, respect for human rights and the rule of law. The Ministers reiterated the readiness of the Council of Europe to co-operate to this end. They also urged Armenia and Azerbaijan to reach tangible results without delay in the solution of the Nagorno-Karabakh conflict.

The Ministers renewed their support for the action of the Council of Europe in contributing to the

Stability Pact and to the full implementation of United Nations Security Council Resolution 1244 on Kosovo. They acknowledged the efforts and evaluation made by the Council of Europe in monitoring, with the assistance of 144 observers, the electoral process in Kosovo, Federal Republic of Yugoslavia, leading to the local elections of 28 October, following a joint request made to the Council of Europe by the United Nations Mission in Kosovo and by the Chairmanship of the OSCE.

The Ministers, on the basis of the report by the Italian Chairmanship and the Secretariat on their visit on 23 October 2000, welcomed the progress achieved by Bosnia and Herzegovina towards meeting the criteria for accession to the Council of Europe, while looking forward to further progress, including the adoption of an electoral law. The Ministers recognised the importance of the Council of Europe's targeted assistance and co-operation programmes.

With regard to the North Caucasus, the Ministers stressed their determination to continue, in co-operation with other international organisations and in dialogue with the Parliamentary Assembly, the Council of Europe's contribution to the restoration of the rule of law, democracy and human rights in the Chechen Republic, Russian Federation. This would continue, notably, on the ground, through its experts in the Office of Mr Vladimir Kalamanov, Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms there. They agreed that it was necessary to ensure concrete follow-up to the complaints made to the Office, including the prosecution of those allegedly responsible for human rights abuses, in accordance with Russian law.

The Ministers welcomed the Joint Declaration adopted following the European Union/Russia Summit (Paris, 30 October 2000) that, in respect of Chechnya, there was agreement upon the need to seek a political solution as a matter of urgency, with due regard for the sovereignty and territorial integrity of the Russian Federation.

The Ministers welcomed the statement by President Putin that the military campaign in Chechnya is coming to an end, agreed that the conditions for a substantial improvement of the humanitarian and human rights situation are now in place, and voiced their expectation that the Russian government will continue to make every effort to achieve these aims. The Ministers welcomed President Putin's readiness to continue Russia's cooperation with the Council of Europe and the OSCE and looked forward to the early return to Chechnya of the OSCE Assistance Group.

*The full versions of all texts adopted by the Committee of Ministers may be consulted on the Committee of Ministers' Internet site at <http://cm.coe.int/>.*

## B. Parliamentary Assembly

### Human rights situation in member states

#### **Conflict in Chechnya**

*Resolution 1240 and Recommendation 1498 (2001) on conflict in the Chechen Republic – recent developments; Recommendation 1499 (2001) on the humanitarian situation of refugees and internally displaced persons (IDPs) from Chechnya; Resolution 1241 (2001) on the credentials of the delegation of the Russian Federation, 25 January 2001*

The Assembly has set up a working group to keep under constant review the human rights and humanitarian situation in Chechnya. Many of the Assembly's requirements are yet to be implemented, prompting demands that measures be taken to remedy immediately the climate of impunity which led to alleged violations of human rights committed by servicemen.

The Assembly also condemns human rights and humanitarian law violations by Chechen fighters, and calls for an immediate release of all hostages.

The Assembly takes note of some encouraging, if limited, developments in the situation, including moves towards establishing civilian administration, judicial system and local police. The action by the Office of the Russian President's Special Representative for human rights in Chechnya has also had a beneficial impact on the human rights situation.

The Assembly decides to set up a working group to monitor the implementation of recommendations and to present regular progress reports.

It recognises the clear efforts of many members of the Russian parliamentary delegation to influence this situation for the better. Taking into account that the State Duma has increasingly become a partner in the Assembly's push for change, the parliamentarians decide to ratify the credentials of the new Russian delegation.

#### **Honouring of obligations and commitments by Latvia**

*Resolution 1236 and Recommendation 1490 (2001), 23 January 2001*

Believing that Latvia has made substantial progress in honouring the obligations and commit-

ments it undertook when it became a member of the Council of Europe, the Parliamentary Assembly decides to close the monitoring procedure begun in September 1997. Some issues – including ratification of the Framework Convention for National Minorities and the European Social Charter – should continue to be the subject of “post-monitoring dialogue” with the Latvian authorities.

#### **Situation in the Federal Republic of Yugoslavia**

*Resolution 1237 and Recommendation 1491 (2001), 23 January 2001*

The Assembly sets out guidelines for future co-operation with the Federal Republic of Yugoslavia, with the aim of helping it to fill the conditions necessary for membership of the Council of Europe. The report highlights the need for an intensive overhaul of legislation to ensure rule of law and respect for human rights, including the rights of members of national minorities. A particular concern is the relationship between Serbia and Montenegro.

The Assembly calls on the Committee of Ministers to boost co-operation programmes with the republic.

In view of the clear will for change shown by the Yugoslav people, the Federal Parliament has been granted special guest status with the Parliamentary Assembly.

#### **Freedom of expression and parliamentary democracy in Ukraine**

*Resolution 1239 and Recommendation 1497 (2001), 25 January 2001*

The Assembly indicates measures necessary to improve the general framework in which the Ukrainian media operate, with a view in the long term to furthering the freedom of the press and mass media in Ukraine.

The Assembly suggested that the national authorities should carry out a thorough investigation of the disappearance of journalist Heorhiy Gongadze. Such an investigation should be considered as a test of freedom of expression and the functioning of parliamentary democracy in the country.



## **Demographic trends and human potential in the countries of central and eastern Europe**

*Recommendation 1482 (2000), 9 November 2000*

The Assembly is convinced that there is a strong correlation between demographic changes and the socio-economic situation in a modern society. It believes that the fulfilment of social undertakings and the application of the Council of Europe's standards as regards the guaranteeing of a certain standard of living and quality of life by its member states, and in particular the implementation of an additional protocol to the European Convention on Human Rights concerning fundamental social rights, could be a positive step.

## **Democracy and legal development**

### **Development of a new social system**

*Recommendation 1482 (2000), 9 November 2000*

The Assembly notes that the development and expansion of the market economy on a widespread basis over the past twenty years has had effects which in the long term could threaten social cohesion and fundamental rights.

It believes that it is necessary to place some restrictions on the free market and to preserve the essential function of democratic institutions, and that Europe may be the most suitable "arena" for the development of a new social model based on solidarity.

### **Impact of new technologies on labour legislation**

*Resolution 1233 (2000), 9 November 2000*

The Assembly urges member states to make sure that the development of new technologies, in particular teleworking, does not go hand in hand with a reduction in the protection to which they are entitled.

### **Participation of immigrants and foreign residents in political life in the Council of Europe member states**

*Recommendation 1500 (2001), 26 January 2001*

The Assembly points out that human rights should be enjoyed by everyone, irrespective of their citizenship and country of origin, and that democratic legitimacy requires participation in the political process by all groups in society. It recommends that the Committee of Ministers reappraise the desirable minimum standards for the treatment of non-citizens residing in a country, in particular concerning their political participation at all levels, with a view to granting the right to vote and stand in local elections to all migrants legally established in the country.

### **Transit migration in central and eastern Europe**

*Recommendation 1489 (2001), 22 January 2001*

The Assembly states that trafficking is primarily a human rights issue. It strongly emphasises that

those escaping persecution and seeking international protection must under no circumstances be prevented from gaining access to asylum procedures, and proposes a number of measures to counter illegal immigration.

### **Rights of national minorities**

*Recommendation 1492 (2001), 23 January 2001*

The Assembly calls for improved protection of national minorities in Europe and calls for a draft protocol to the European Convention on Human Rights on the rights of national minorities which would include the definition of national minority adopted in its Recommendation 1201 (1993).

The Assembly stresses the importance effective minority rights protection, as the only way to reduce ethnic tensions that might provoke more conflicts. It says all member states must safeguard the minimum rights of national minorities, as set out in the Framework Convention for the Protection of National Minorities and calls for the drafting of an additional protocol to the convention giving to the European Court of Human Rights or to a general judicial authority of the Council of Europe the power to give advisory opinions concerning the interpretation of this treaty. Turning to other texts which might help protecting national minorities, such as Protocol No. 12 to the European Convention on Human Rights, the Assembly appeals to states to ratify and to apply them properly. It also proposes a strengthening of the role of the Council of Europe Commissioner for Human Rights in this field.

### **Impact of electoral systems on the political process**

*Resolution 1231 (2000), 9 November 2000*

The Assembly suggests that the parliaments of member countries pay attention to issues regarding the impact of electoral systems on the turnout at elections – an important element of democracy – on the opportunities for women to take their place in parliament, and on the way ethnic, linguistic and religious minorities are represented.

## **European Court of Human Rights**

### **Age-limit for the exercise of the function of judge**

*Resolution 1232 (2000), 9 November 2000*

Considering the case of a judge continuing in office after having reached the age-limit of 70, the Assembly stresses that the provisions of the Convention, whether of a substantial or of a procedural nature, should be scrupulously applied.

*The full version of the texts adopted by the Parliamentary Assembly is available on the Assembly's Internet site at <http://stars.coe.int/>.*

## C. Directorate General of Human Rights

*The Directorate General of Human Rights assists the Committee of Ministers in carrying out its functions in the context of the European Convention on Human Rights. It provides secretarial support for bodies established under the European Social Charter, the European Convention for the Prevention of Torture, and the Framework Convention for the Protection of National Minorities.*

*Its activities, either intergovernmental or defined by conventions cover: the fight against racism and intolerance (European Commission against Racism and Intolerance – ECRI); equality between women and men (Steering Committee for Equality between Women and Men – CDEG); media and democracy (Steering Committee on Mass Media – CDMM – and European Convention on Transfrontier Television); human rights co-operation and awareness; and the Steering Committee for Human Rights – CDDH.*

### I. European Social Charter

#### • Conferences, seminars, meetings, workshops, training programmes

The Charter Secretariat co-organised an information seminar with the *Institut des hautes études européennes* of the Robert Schumann University, Strasbourg, on 10 November 2000, on the application of the Charter's control mechanism. Several university specialists in human rights and community law participated and held exchanges of views with members of the European Committee of Social Rights, representatives of the judiciary, the social partners and civil society.

Two seminars were organised within the Activities for the Development and Consolidation of Democratic stability (ADACS) programme.

The first, in Chişinău, Moldova, on 15 and 16 November 2000 was to enable the Moldavian authorities to become better informed about the procedure for ratifying the revised European Social Charter which was signed by Moldova in November 1998.

The second, in Zagreb, Croatia, on 21 and 22 November 2000, aimed at supporting Croatia's commitment to ratify the Charter which was signed in March 1999.

A member of the Secretariat was invited to "NETLEX" 2000 – Conference of the European Trade Union Confederation (ETUC), Vilnius, Lithuania, on

29 November and 2 December 2000 to present the Charter in the framework of examining the current social trends in Europe, as put forward by ETUC and financed by the European Union.

An information meeting was organised in Ankara, Turkey, on 29 November and 1 December 2000, in order to enable to enable encounters between the highest legal bodies in the country as well as representatives of Ministries involved in the application of the Charter, employers associations and Turkish trade unions who are members of ETUC.

A multilateral meeting on "The Social Charter of Europe" intended for countries applying for European Union membership was organised in the framework of the Joint Programme Council of Europe/European Commission (Promotion of the Charter), Council of Europe, Strasbourg, 14-15 December 2000.

A seminar was organised in Andorra, on 5 and 6 February 2001 following Andorra's signature of the Revised European Social Charter in November 2000. It aimed to inform the authorities thus allowing an effective progression towards ratification of the revised Charter.

#### Publications

- *International Commission of Jurists against Portugal – Complaint No. 1/1998*  
Social Charter monographs, No. 9 ISBN 92-871-4390-0
- *European Committee of Social Rights – Conclusions XV-2*  
Vols. 1 and 2 ISBN 92-871-4554-7 and 92-871-4556-7

### 2. Minorities

As part of the Stability Pact for South-Eastern Europe three projects with a bearing on national minorities were launched at the end of 2000. These projects focus on:

- non-discrimination review of national legislation, policy and practice,
- recognition and implementation of existing standards relating to national minorities,
- bilateral co-operation agreements as a tool for promoting good ethnic relations.

### 3. European Commission against Racism and Intolerance (ECRI)

ECRI held its 23rd plenary meeting from 11 to 15 December 2000. At this meeting it finalised and adopted its general policy recommendation No. 6 on combating the dissemination of racist, xenophobic and anti-Semitic material via the Internet, which had been prepared on the basis of a study of legal instruments for combating racism on the Internet carried out by the Swiss Institute of Comparative Law. In this recommendation, ECRI calls on governments to, *inter alia*, support self-regulatory measures within the Internet industry and to reflect on the setting-up of a national consultation body, which might act as a permanent monitoring centre, mediating body and partner in the preparation of codes of conduct in this area.

### 4. Equality between women and men

#### A. **Trafficking in human beings for the purpose of sexual exploitation**

A report on positive action in the field of equality between women and men has been published, focusing on positive action in the labour market on the one hand and decision-making in political and public life on the other. Aimed at decision- and policy-makers wishing to use positive action more effectively, the report contains definitions of all the different types of positive action used and practical examples in order to illustrate them clearly.

#### B. **Equality and education**

The Steering Committee for equality between women and men (CDEG), in co-operation with the Education Committee (CC-ED), organised a seminar "A new social contract between women and men: the role of education" in Strasbourg on 7 and 8 December 2000. The main aims of the seminar were to take stock of the situation as regards gender equality at school and propose future action in this field.

#### C. **Balanced participation in decision-making**

A group of specialists has started work on a draft recommendation from the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making. A consultant has prepared a study of good practices to achieve gender-balanced representation in decision-making.

#### D. **Co-operation activities in the field of equality between women and men**

In the framework of the Council of Europe's co-operation programmes, a seminar on equal opportunities in decision-making was organised in Tirana on 19 and 20 December 2000.

Experts participated in a working group on trafficking and violence against young women in the

framework of the "Human Rights Education Forum" (Budapest, 7-12 November 2000) and a seminar on domestic violence (Priština, 3-8 December 2000).

The Council of Europe is playing an active role in implementing activities taking place in the framework of the Gender Task Force set up under the Stability Pact for South-Eastern Europe.

- Workshop on "Women in politics and elections" (Bucharest, 26-27 October 2000)
- Working session on the preparation of an "Equal Opportunity Act" (Sofia, 15-17 November 2000)
- Seminar on "Gender mainstreaming: good practice, and positive action in elections and politics – new strategies for gender equality" (Skopje, 7-8 December 2000)
- Working meeting on enhancing the participation of women in politics (Skopje, 17 January 2001)
- Seminar on women's political rights (Podgorica, 23-24 February 2001).

### 5. Media

#### A. **Steering Committee on the Mass Media (CDMM)**

On the initiative of the CDMM, the Committee of Ministers adopted on 20 December 2000 Recommendation Rec (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector and authorised the publication of its explanatory memorandum. The text recommends that member states' governments set up independent regulatory authorities for the broadcasting sector, if they have not already done so, and include provisions in their legislation and measures in their policies empowering these authorities to carry out their duties in an effective, independent and transparent manner. It proposes a number of guidelines on issues such as the procedure for appointing members of the regulatory bodies taking into account the need to prevent political pressure, the granting of licences and monitoring of broadcasters' compliance with their commitments and obligations as well as the public accountability of the regulatory bodies themselves.

#### B. **Groups of specialists**

The Group of Specialists on media law and human rights (MM-S-HR) held its last meeting from 15 to 17 November, during which it finalised a draft declaration dealing with the freedom of the media to disseminate information and opinions about political figures and public officials. Other unfinished work on the provision of information through the media in the context of criminal proceedings will be taken over by the new Group of Specialists on freedom of expression and other fundamental rights (MM-S-FR), created in 2001.

At its first meeting from 7 to 9 February 2001, the newly established Group of Specialists on on-line serv-

ices and democracy (MM-S-OD) continued the work begun by the former Group of Specialists on new communications technologies (MM-S-NT) on preparing a draft recommendation on self-regulation concerning cyber content together with a draft explanatory memorandum.

### C. Activities for the development and consolidation of democratic stability

Within the Stability Pact for South-Eastern Europe, the Media Division organised a Conference in Belgrade from 10 to 12 December 2000 on *Media for a democratic Europe: transformation of broadcasters in the Federal Republic of Yugoslavia*, in co-operation with the Association of Independent Electronic Media (ANEM). A set of conclusions was adopted stressing the need for new media laws conforming to international standards on media freedom. This legislation should serve as the basis for setting up a public service broadcasting organisation to replace the country's state-controlled broadcaster, Radio-Television Serbia (RTS), together with an independent regulatory authority for broadcasting. Further information on this event can be found on the web site <http://www.humanrights.coe.int/media>.

On 23 February 2001, a regional meeting of broadcasting regulatory authorities from south-eastern Europe was held in Budapest on the topic *Strategies for effectiveness, transparency and independence*. Another conference was organised in Zagreb on 28 February and 1 March on *Free media in south-eastern Europe: the protection of journalists and their role in reconciliation, promoting inter-ethnic peace and preventing conflicts*, in co-operation with the OSCE Representative on Freedom of the Media and the OSCE Mission in Croatia.

Finally, a written expertise of the Albanian draft law on the freedom of the press was conducted in February 2001.

## 6. Human Rights Co-operation and Awareness Division

### A. Compatibility

Compatibility studies consist in an in-depth examination of the conformity of domestic legislation and practice with the requirements of the Convention, its protocols and case-law. **Armenia** and **Georgia** completed their compatibility exercises at the end of 2000 with reports published subsequently. For Albania, the compatibility report will be ready by 1 May 2001.

On 14 and 15 December a conference was organised by the Ukrainian Ministry of Justice and the Council of Europe to present the final compatibility report prepared by **Ukrainian** independent experts from the Kharkiv State Legal Academy, the Ministry of Justice and Council of Europe experts to the relevant authorities. The legislation and practice were examined with

regard to the requirements of Articles 3, 5, 6, 10, 13 and Articles 1 and 3 of Protocol No. 1 to the ECHR. The publication of this report is expected in April.

Within the framework of the process towards the accession of the **Federal Republic of Yugoslavia** to the Council of Europe a "Conference on the compatibility of the legislation and practice with the European Convention on Human Rights and other European norms" took place in Belgrade on 16 and 17 February. In the final conclusions of the conference a "Priority Programme to support the Federal Republic of Yugoslavia in strengthening human rights and the rule of law with a view to its accession to the Council of Europe" was presented and endorsed by the representatives of the FRY government who attended the conference. The conference was organised by the Council of Europe in co-operation with the Belgrade Centre for Human Rights.

### B. Training

Systematic and intensive training of legal professionals (judges and lawyers) and law enforcement agencies on the European Convention on Human Rights and other European human rights standards, has been conducted during the reporting period with production of appropriate documentation in relevant languages.

#### • North-east Europe and the Black Sea region

In November training was given at the Legal Academy in Moscow in the eighth seminar for Russian lower court judges, who, on this occasion included 25 recently appointed to serve in **Chechnya** after a four-year interval. The Chechen judges will be handling civil and criminal cases at first instance, but not crimes allegedly committed by military personnel.

In November training of judges-trainers began in **Latvia** subsequent to discussions held earlier in the year with the Ministry of Justice and the Training Centre for Judges. The plan is to hold three training sessions for the group of twelve judges from all parts of Latvia who could provide training on the European Convention on Human Rights to all Latvian judges within the framework of programmes offered by the Training Centre for Judges.

In December the first workshop for judges on the Convention was held in **Azerbaijan** in co-operation with the Constitutional Court.

In **Ukraine**, a training session was organised in December 2000 for lawyers on Article 1 of Protocol No. 1 to the Convention. This was followed by the launching at the beginning of 2001 of an intensive two-year training programme on the European Convention on Human Rights for 35 lawyers, organised in co-operation with, *inter alia*, the Ukrainian Union of Advocates and Interights.

On the occasion of the Ukrainian Union of Advocates' 10th Anniversary, the Directorate General of Human Rights received an award for having contrib-

uted to the “consolidation and development of the Ukrainian Bar, the reinforcement of the professional rights of lawyers and of the lawyer’s role in the protection of human rights and freedoms”.

- **South-east Europe**

In **Kosovo** 400 newly appointed judges and prosecutors and 70 lawyers received intensive training on Articles 5 and 6 of the ECHR during 2000. This activity, which was made possible by voluntary contributions from the United States of America, contributed to the development of a functioning, independent judiciary in Kosovo.

In **Bosnia and Herzegovina** a comprehensive three-year training programme on the ECHR and European legal standards was initiated in July 2000 with one year of funding provided by the United States of America. Between September 2000 and June 2001 over 250 judges and prosecutors will have attended a one-week training course, out of whom a select few will thereafter receive specialised training on how to run training courses themselves. Despite the fact that the ECHR has been a part of domestic law since December 1995 most judges were ignorant of both the substance of the Convention and its status in the country. Strengthening the functioning and independence of the judiciary through developing local capacity is an important element of this programme.

In **Albania**, 180 judges and prosecutors are undergoing training on Articles 5 and 6 of the ECHR between January and June 2001. The training is being organised in co-operation with the School of Magistrates.

In **Bulgaria**, in “**the former Yugoslav Republic of Macedonia**” and in **Moldova**, the Council of Europe has built strong relationships with the various bodies responsible for training judges and prosecutors. Training activities in Bulgaria included, in cooperation with the Magistrate Training Centre, one introductory course to the European Convention on Human Rights (mainly the right to a fair trial) organised for newly appointed judges together with one workshop aimed specifically at assessing the compatibility of the criminal procedure with the requirements of the ECHR, especially in view of the recent cases decided against Bulgaria by the European Court of Human Rights.

In “**the former Yugoslav Republic of Macedonia**”, in co-operation with the Centre for Continuing Education (CEE) formed in March 1999, the Council of Europe has co-organised four seminars on selected articles of the Convention for different groups of judges coming from various parts of the country.

Similar training events have also been organised in **Romania** (with the Ministry of Justice), in **Croatia** (with the Croatian Legal Centre and the Office of the Government Agent) and in **Turkey** (with the Izmir Bar Association).

- As part of the programme of *Information Meetings for judges and lawyers on the European Convention on Human Rights*, the Human Rights Co-operation and Awareness Division contributed to a seminar on the incorporation of the ECHR into United Kingdom domestic law in Belfast, and to a seminar on the rights of the ECHR of relevance to Roma in Florence.

### C. Ombudsmen/Stability Pact

The number of activities implemented with, and about, ombudsmen and national human rights institutions continues to be high. These include seminars and round tables, visits to study the work and experiences of other member states in this field, participation by the staff of ombudsman offices in human rights training activities held in different member states and for which the Council of Europe offers financial support, and the provision of documentation to ombudsman offices.

- **North-east Europe and the Black Sea region**

Two seminars, in the Moscow Region and Kaliningrad, at the end of 2000 rounded off a programme of five introductory workshops on the regional parliamentary ombudsman institution in the Russian Federation for the year. In December Kaliningrad became the first region to elect a woman to the post. Three other regions elected parliamentary ombudsmen in the reporting period.

A follow-up meeting to legal expertise of a draft law on the Defender of Human Rights of the Republic of Armenia was held in Yerevan in November and was attended by Council of Europe and experts from the Office for Democratic Institutions in Human Rights (ODIHR). Another seminar on the work and principles of an ombudsman institution was held in Baku in November. At the seminar, the concept of a human rights institution was presented by the Institute of Human Rights of the Academy of Sciences of the Republic of Azerbaijan.

- **South-east Europe**

The Council of Europe, as sponsor of the Task Force on Good Governance created under the Stability Pact for South-Eastern Europe, is co-ordinating the implementation of a project aimed at furthering the process of establishing and reinforcing independent national human rights protection institutions, including ombudsman institutions, in the countries in south-east Europe. A number of activities have been carried out in south-east Europe such as expert placement to visit the Ombuds-person Institution in Kosovo to provide practical input and training for the Ombudspersons and their professional staff on handling investigations. Other examples include a “Round-Table Meeting on the role, mandate and powers of the Ombudsman Institution” that was organised in February in Zagreb. This round table brought together representatives of ombudsman institutions from

south-east Europe, as well as Croatian participants (officials, representatives of NGOs and the press) and looked at the role and functions of an ombudsman institution, both in Croatia and in neighbouring countries, including in FRY.

See complete list of activities at <http://www.humanrights.coe.int/aware/>.

#### **D. Death penalty**

A Joint Programme with the European Commission to raise awareness on abolition of the death penalty is being conducted in a number of countries (Albania, Armenia, Azerbaijan, Belarus, Georgia, Russian Federation, Turkey and Ukraine). The primary aim of the programme is to ensure the removal of the death penalty from the statute books and the ratification of Protocol No. 6. At the same time, the programme is conscious not to neglect the broader dimension of ways and means of tackling serious crime in a manner which respects human rights and to examine issues of “alternatives” to capital punishment.

The Clemency Commission of the Russian Federation Presidential Administration agreed a three-year programme with the Council of Europe in February aimed at humanising public opinion towards crime and the people who commit it. The Commission’s ultimate aim is to enable smooth ratification of Protocol No. 6, which outlaws the death penalty in time of peace.

In Albania an intensive awareness campaign has been initiated in January with the conducting of an opinion poll which looks beyond the black and white issues of abolition. A number of information materials are being put together to serve as background for a series of 30 seminars throughout the country which will run as from April 2001. In working with the media a couple of storylines are being developed for the very popular *Rruga me Pisha* radio soap opera that has been sponsored by the BBC over the past year.

#### **E. Documentation, awareness-raising and human rights education**

By the end of 2000, publication and distribution of the translation into Russian of extracts of 90 key judgments, delivered by the Court until 1998, were completed. This is now also available on the intranet sites of the Supreme Courts of the subjects of the Russian Federation and on the website of the Open Society Institute in Russia. In addition, the 1998 revised version of Donna Gomien’s *Short guide to the European Convention on Human Rights* has been translated into Russian and published (as document H (2001) 1).

In Ukraine, at the end of 2000 the third and fourth issues of the journal *European Court of Human Rights. Judgments. Commentaries* were published by the Ukrainian Legal Foundation with the Council of Europe’s support. Along the lines of previous issues, it contains the translation into Ukrainian of the decisions of the Court most relevant to Ukraine.

In Georgia, the translation of the first fourteen key judgments of the European Court of Human Rights has been finalised. Volume I of the translated judgments was published in February 2001.

Estonia and Lithuania, having chosen an article-by-article approach, issued further case-law publications in 2000. In Latvia, publication of annotated recent judgments continued.

For Albania, a first volume of extracts of forty-five key judgments and fifty case-law summaries in Albanian are available now from the Council of Europe Office in Tirana.

Five key Council of Europe human rights conventions – European Convention on Human Rights, European Convention for the Prevention of Torture, Framework Convention for the Protection of National Minorities, European Social Charter and European Charter for Regional or Minority Languages – have been published by the Belgrade Centre for Human Rights in Serbian.

During 2000 a selection of the documents produced by the Council of Europe in the framework of the programme “Police and Human Rights: 1997-2000” were also translated into several central and eastern European languages.

A Council of Europe document related to the Convention for the Prevention of Torture entitled “Substantive sections of the General CPT’s Reports” is now available in Albanian, Georgian, Lithuanian, Romanian, Russian and Ukrainian.

The Council of Europe has been responsible for the elaboration and implementation of a large-scale campaign to raise awareness among the public and the administration in the Federal Republic of Yugoslavia. A Human Rights Bookshelf collection, containing the full collection of the ECHR case-law and commentaries, has been donated to the Kosovo Ombudsman Office, the Kosovo Human Rights and Law Centre, the Law Faculty of Priština University, the Human Rights Centre at the University of Montenegro, and the Institute for Public Administration, Judiciary and Local Self-government of Montenegro.

#### **F. Police and human rights**

##### *Activities*

The three-year programme “Police and Human Rights 1997-2000” was brought to a close during a pan-European conference held in Strasbourg on 11 and 12 December 2000. One of the high points in the final year of the programme was the organisation, at national level, of a “Police and Human Rights Week”. From 28 October to 4 November 2000, more than 24 countries commemorated the 50th anniversary of the signing of the European Convention on Human Rights by organising special activities which focused on the importance of human rights in policing.

The same conference served as a launching pad for a new, more permanent programme of activities in this field. "Police and Human Rights – Beyond 2000" is designed to build on the work of the initial, three-year programme, bringing a sound knowledge of human rights standards which have important implications for policing to police officers across Europe and helping them to translate those standards into their daily working practice.

The new programme began with a visit, in February 2001, to Belfast for a meeting with the Oversight Commissioner and his team, which is charged with overseeing the implementation of the Patten report and its recommendations for change to policing in Northern Ireland. This meeting provided an opportunity for the Council of Europe delegation to share its experience of European policing models and to advise on mechanisms for overseeing change across a range of issues.

### **Publications**

- *Police powers and accountability in a democratic society – Proceedings, 12th Criminological Colloquium, 1999*  
Criminological Research No. 33 (2000) ISBN 92-871-4516-4
- Three important elements of the "Trainer's Supply Kit" were published in English: *The Human Rights Challenge in Police Practice, Discussion Tools* and a *Pamphlet for Police*.

Further information concerning other materials on Police and Human Rights is available on the Internet at: <http://www.humanrights.coe.int/police/>.

## **7. Steering Committee for Human Rights (CDDH)**

The Steering Committee for Human Rights (CDDH) held its 51st meeting in Strasbourg from 27 February to 2 March 2001, under the chairmanship of Mr K. Drzewicki (Poland).

- **Follow-up to the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000)**

The meeting was mainly devoted to the organisation of the work to implement the decisions adopted by the Ministers' Deputies at their 736th meeting (10-11 January 2001) concerning the ministerial conference. It is recalled that this Conference marked the 50th anniversary of the European Convention on Human Rights. The political texts (two resolutions and a declaration) adopted on that occasion are available on the internet site of the Council of Europe. There are also plans to publish the proceedings of the Conference during 2001.

In this context, the CDDH, in particular, decided to create a "Reflection Group on the reinforcement of the human rights protection mechanism" made up of fifteen governmental experts (Belgium, Bulgaria, Finland, France, Hungary, Latvia, Italy, Malta, the Netherlands, Poland, Portugal, Sweden, Switzerland, Turkey and the United Kingdom). The work of this Group corresponds to the request addressed by the Conference to the Committee of Ministers in Resolution No. 1 (to initiate, as soon as possible, notably through the CDDH, a thorough study of the different possibilities and options with a view to ensuring the effectiveness of the European Court of Human Rights which is confronted with an ever-increasing volume of applications). In doing so, the CDDH Reflection Group will make a significant contribution to the work carried out by the Evaluation Group responsible for examining possible means of guaranteeing the effectiveness of the European Court of Human Rights, which was set up by the Ministers' Deputies in February. The CDDH Reflection Group held its first meeting on 1 March 2001, under the chairmanship of the expert from the United Kingdom. Another meeting is planned for 23-25 April and 18-19 June 2001.

Moreover, the CDDH decided to begin drafting, on the basis of a text proposed by the Swedish authorities, a new protocol to the Convention excluding the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war. In view of the existing political will concerning this question and the fact that it raised no major technical difficulties, the CDDH considered that its sub-committee, the DH-DEV, could begin drafting a new protocol and an explanatory report at its 27th meeting (20-22 June 2001).

- **Opinions of the CDDH**

Finally, at its 51st meeting, the CDDH also prepared opinions for the attention of the Committee of Ministers concerning two Parliamentary Assembly recommendations: 1477 (2000) on the execution of judgments of the European Court of Human Rights and 1479 (2000) on the Charter of Fundamental Rights of the European Union.

- **Protocol No. 12 to the European Convention on Human Rights**

At its opening for signature at the Ministerial Conference in November 2000, Protocol No. 12 was signed by 25 of the Council's member states (see Part I.A, Convention activities, p. 4). The protocol is published as No. 177 of the European Treaty Series, ISBN 92 871 4519 9. See Part III, Publications.

## **D. Commissioner for Human Rights**

The office of the Commissioner for Human Rights was established following the adoption by the Committee of Ministers of Resolution (99) 50 on 7 May 1999.

According to this text, the Commissioner is to promote education in human rights, identify possible shortcomings in the law and practice of member states with regard to compliance with human rights, and help promote the effective observance and full enjoyment of human rights, as embodied in the various Council of Europe instruments.

In the fulfilment of his duties, the Commissioner made the following visits and organised the following meetings, between 1 November 2000 and 28 February 2001:

- **Visits**

### **Andorra**

*10-12 January 2001*

The main object of this visit was to evaluate the human rights situation in Andorra with regard both to the legislation and to the effective observance of human rights. This evaluation did not reveal any serious problems either in the legislation or in practice.

However, certain issues could still be improved and a number of international instruments remain unratified.

### **Georgia (Pitsunda)**

*12-13 February 2001*

*Seminar on the state-legal aspects of the solution of the conflict between Georgia and Abkhazia.*

The seminar was intended to encourage an exchange of opinions between representatives of the Georgian government and the Abkhaz authorities. The Commissioner also met the President of the Georgian Republic and representatives of the local NGOs.

As a result, the participants agreed to organise a second seminar on topics relevant for the resolution of the conflict.

### **Spain (Madrid and Basque country)**

*5-8 February 2001*

In order to evaluate the effective observance of human rights, especially in the Basque country, various meetings were organised in Madrid, Bilbao, San Sebastian and Vitoria between the Commissioner, political and legal officials and human rights organisations working in the area. On his return from this visit, the Commissioner strongly condemned human rights violations resulting from terrorist action and urban violence directed at the Basque population.

### **Russian federation (Moscow and Chechnya)**

*26 February-2 March 2001*

The purpose of this visit was to consider the various means of effecting the political, social and economic reconstruction of the region and to examine the functioning of the judicial machinery. To this end the Commissioner held meetings with senior officials of the federal administration, the Duma, the provisional Chechen government and the military authorities as well as with representatives of NGOs, enabling him to gain an overall view of the situation. A resulting priority was to remedy the impunity surrounding numerous crimes committed against the civilian population by the chechen combatants as well as the federal forces in Chechnya.

- **Meetings**

*Meeting in Paris with western European ombudsmen (1 December 2000)*

Discussions focused primarily on how to deal with the increasing number of complaints, on the possible human rights role of ombudsmen in the absence of mandates specifically referring to them and on the co-operation between these institutions and the Commissioner for Human Rights. The creation of a network of mutual consultation and information, through liaison officers appointed by the Commissioner and each national ombudsman, was decided on.

*Seminar on "the role of monotheistic religions vis-à-vis armed conflict" (6-10 December 2000, Syracuse, Italy)*

Representatives of the five main monotheistic faiths (Catholic, Protestant, Orthodox, Jewish and



Muslim) attended. They unanimously condemned religious fanaticism and called for respect for all religious convictions and ideals, for holy places and for freely chosen religious lifestyles, both at the national and international level.

The continuation of dialogue in favour of tolerance and the refusal of violence was agreed.

*Meeting with non governmental human rights organisations (18-19 December 2000, Paris)*

This meeting sought to introduce the Commissioner for Human Rights and non-governmental

human rights organisations to each other's work with a view to encouraging co-operation. Working priorities were also defined: subjects such as access to justice, freedom of information, the access of migrant workers to fundamental rights, the administrative detention of asylum-seekers, the right to equality and non-discrimination and the situation of conscientious objectors presented themselves as constructive fields of co-operation.

The documents relating to the activity of the Commissioner for human rights are available on the Internet: <http://www.commissioner.coe.int/>

## E. Human rights instituts

An update to the information published in the January issue of the *Bulletin* (No. 51).

### Germany / Allemagne

#### Menschenrechtszentrum

Universität de Potsdam

Heinestr. 1

D-14482 Potsdam

Tel. + 49 (331) 70 76 72

Fax + 49 (331) 71 92 99

e-mail [mrz@rz.uni-potsdam.de](mailto:mrz@rz.uni-potsdam.de)

#### CONFÉRENCES/COLLOQUES

- 29/30 septembre 2000, Potsdam : « La discrimination raciale ». Lors de cette conférence ont été analysées les différentes formes de discrimination raciale ainsi que les possibilités et moyens de les combattre.
- 9/10 octobre 2000, Potsdam : « Réfugiés – Droits de l'homme – Nationalité ». A l'occasion de cette conférence les participants se sont interrogés sur le droit allemand des réfugiés et des demandeurs d'asile à la lumière de la Convention de Genève ainsi que ses perspectives, notamment les visions d'une politique européenne et les problèmes liés à l'expulsion et à la reconduite à la frontière.

#### COURS

##### Hiver 2000/2001

- L'affaire Pinochet – les conséquences pratiques de la décision de la *House of Lords* (GB)
- La Convention européenne des droits de l'homme : « Instrument vivant » – son 50<sup>e</sup> anniversaire
- La réforme dans le système des Nations Unies

- Les activités du Parlement allemand dans le domaine des droits de l'homme
- La « dimension humaine » de l'OSCE
- Le régime d'expulsion des victimes de la torture
- Violations des droits de l'homme et indemnisations

#### PUBLICATIONS

##### Série Edition Berlin Verlag (Vol. 8)

- *The duty to protect and to ensure human rights*, Eckart Klein (éd.) (en anglais)

##### « Studien zu Grund- und Menschenrechten » (en allemand)

- n° 5, mai 2000 : *La Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes et son Protocole facultatif*, Eckart Klein (éd.)
- n° 6, nov. 2000 : *Le Tribunal constitutionnel du Land de Brandebourg et la protection des droits fondamentaux*, Barbara Schäfer
- n° 7, fév. 2001 : *L'histoire des droits de l'homme*, Andreas Haratsch

##### MenschenRechtsMagazin (en allemand)

- n° 2/2000 : Les activités du Comité des Droits de l'Homme des Nations Unies en 1999/II (requêtes individuelles, Commentaire général sur la liberté de circulation, le conflit au Timor oriental, la Convention cadre du Conseil de l'Europe pour la protection des minorités nationales, la protection des réfugiés contre l'expulsion)
- n° 3/2000 : L'amnistie et le droit international, le 25<sup>e</sup> anniversaire de l'Acte final d'Helsinki, analyse de décisions actuelles de la Cour européenne des Droits de l'Homme, la Charte des droits fondamentaux de l'Union européenne, la République fédérale d'Allemagne et la protection internationale des droits de l'homme
- Numéro spécial (mai 2000) : Le 50<sup>e</sup> anniversaire de la Convention européenne des Droits de l'Homme

## III. Publications

*Publications with ISBNs beginning 92-871- may be obtained from Council of Europe Publishing. For further information, contact:*

Council of Europe Publishing  
Sales Unit  
Council of Europe  
F-67075 Strasbourg Cedex

Tel. (33) 3 88 41 25 81  
Fax (33) 3 88 41 39 10  
e-mail publishing@coe.int  
Internet http://book.coe.int

*Other documents are generally available from:*

Human Rights Information Centre  
Council of Europe  
F-67075 Strasbourg Cedex

Tel. (33) 3 88 41 20 24  
Fax (33) 3 88 41 27 04  
e-mail humanrights.info@coe.int

### Human rights in general

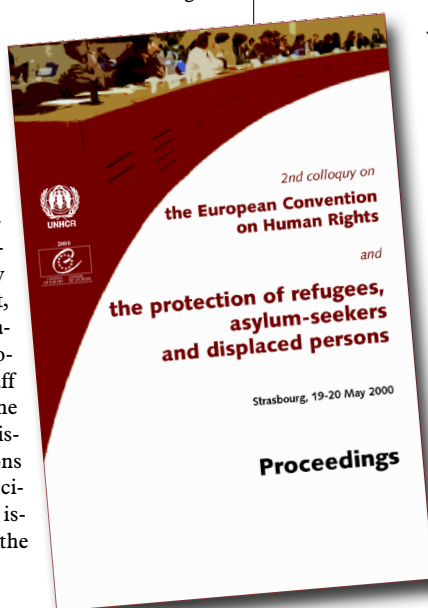
#### **2nd colloquy on the European Convention on Human Rights and the protection of refugees, asylum-seekers and displaced persons**

Proceedings, Strasbourg, 19-20 May 2000

ISBN 92 871 4461 3

The colloquy on the European Convention on Human Rights and the protection of refugees, asylum-seekers and displaced persons followed and updated a similar event which took place in 1995 in Strasbourg.

Five years later, its main objective was to examine the potential of the European Convention on Human Rights (ECHR) and the evolution of its jurisprudence as relevant to the protection of refugees and asylum-seekers. Some eighty people participated in this two-day event, including government officials, representatives of IGOs and NGOs, judges of the European Court of Human Rights, and staff members of the Council of Europe and the Office of the United Nations High Commissioner for Refugees (UNHCR). Discussions were open and constructive with all participants demonstrating much interest in the issues as well as detailed knowledge of the pertinent ECHR jurisprudence.

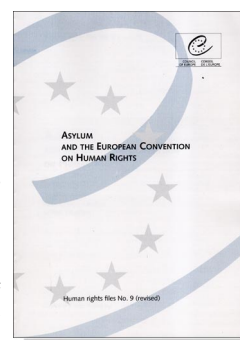


UNHCR and the Council of Europe have co-operated on the publication of the proceedings of the colloquy. This volume contains the speeches and texts of each speaker's contribution and a detailed summary of the discussions.

#### **Asylum and the European Convention on Human Rights**

Human Rights Files No. 9,  
revision (2000) ISBN 92 871 4441 9

In this 3rd edition the author, Nuala Mole, draws extensively on the recent case-law of the Strasbourg organs to present a wide-ranging account of the protection afforded to refugees under the European Convention on Human Rights.

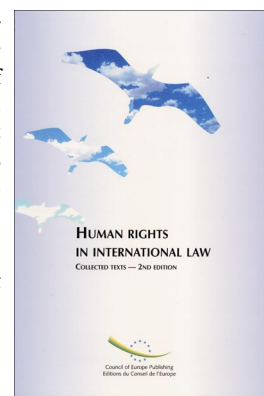


#### **Human Rights in International Law**

Collected texts (2nd edition) (2000) ISBN 92 871 4498 2

This collection brings together in one volume a selection of the major international texts in the field of human rights, which can be used both as an introduction to this vast subject and as a working tool for students, professionals and others working in the field of humanrights.

This book responds to the growing interest in human rights among students, lawyers, teachers, diplomats and other professional groups, as well as the general public as a whole.



#### **Yearbook of the European Convention on Human Rights Vol. 42, 1999**

Published by Kluwer Law International, PO Box 85889, 2508 CN The Hague, Netherlands.

#### **Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms**

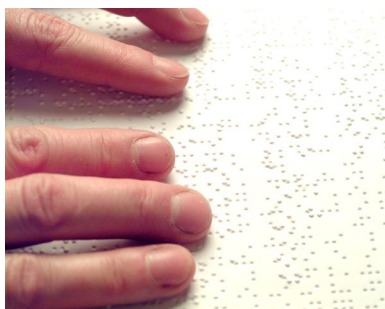
ETS No. 177, Strasbourg, 4 November 2000

ISBN 92 871 4519 9

#### **The European Convention on Human Rights in Braille**

The Braille edition of the European Convention on Human Rights sees the light of day in the year of the Convention's 50th anniversary. It is available in A4 format in French

and English (both Grade 1 and Grade 2). The printed edition is also available in eight languages in pocket format. This new version can be obtained free of charge from Point i at the Council of Europe: e-mail [point\\_i@coe.int](mailto:point_i@coe.int).



### The European Convention on Human Rights – starting points for teachers

This new teaching pack is for secondary schools. It aims to introduce human rights into the classroom by providing starting points and suggesting some interactive activities; it is designed primarily for working with 14-18 year-olds. This publication, free of charge, is edited by the Council of Europe's Public Relations Division. The folder is available in English, French, German and Italian and, shortly, in other language versions from Point i, [point\\_i@coe.int](mailto:point_i@coe.int)



### Freedom of exercise of the profession of lawyer – Recommendation Rec (2000) 21 and explanatory memorandum (2001)

ISBN 92 871 4501 6

The purpose of this recommendation is to protect and to promote the freedom of exercise of this profession in member states. In particular, it covers the following points: access to the profession of lawyer, initial and in-service training, the role and duties of lawyers, access of all persons to lawyers, the organisation of Bars and disciplinary measures.

## European Court of Human Rights

*These documents are available on the site <http://www.echr.coe.int/>*

### Information Note on the case-law of the Court

- No. 24 (November 2000)
- No. 25 (December 2000)
- No. 26 (January 2001)
- No. 27 (February 2001)

### Survey 2000

An information document issued by the Registrar of the Court dealing with events in 2000. The first part gives the historical background, organisation and procedure, followed by the composition of the Court and its sections. The judgments delivered by the Court in 2000 are presented in chronological order, then by subject-matter and by article of the Convention. Cases accepted for referral to the Grand Chamber and cases in which jurisdiction was relinquished by a Chamber in 2000 are also listed.

Statistical information is given in tabular form on judgments delivered by the Grand Chamber and sections (on merits, friendly settlements, struck out and others); on the growth in the number of individual applications since 1955; and on judgments, provisional files and applications presented state-by-state.

### Notes for the guidance of persons wishing to apply to the European Court of Human Rights

This new note, more explicit than previous versions, explains in 25 articles what cases the Court can deal with and how to apply to the court. It is available in French and English.

## European Commission of Human Rights

### Decisions and reports

Summaries and indexes 76-94 (2000) ISBN 92 871 4545 8

The first part of this volume consists of systematically classified summaries of all the decisions and reports of the European Commission of Human Rights published in the collection Decisions and Reports. Their classification facilitates rapid access to the texts relating to these summaries.

The second part contains various indexes such as a numerical index, an alphabetical index of applicant's names, an alphabetical index of respondent States as well as an alphabetical index by subject matter, and finally an index related to the articles.

### Social questions

*For further information: <http://www.humanrights.coe.int/cseweb/>*

### International Commission of Jurists against Portugal – Complaint No. 1/1998

Social Charter monographs, No. 9 ISBN 92 871 4390 0

This volume presents in chronological order the original documents relating to the procedure followed in the first collective complaint, introduced on 12 October 1998, by the International Commission of Jurists against Portugal. This concerned the prohibition of child labour for children aged under fifteen.

### European Committee of Social Rights – Conclusions XV-2

Vols. 1 and 2 ISBN 92 871 4554 7 and 92 871 4556 7

### Social rights = Human rights

Newsletter on the European Social Charter  
No. 15, January 2001

### The European Social Charter – A treaty of the Council of Europe that protects human rights

English, French, German, Italian, Portuguese and Russian texts available.

## CPT

*CPT documents are available from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, F-67075 Strasbourg Cedex. Public documents are also available on the CPT's Internet site: <http://www.cpt.coe.int/> and via e-mail: [cptdoc@coe.int](mailto:cptdoc@coe.int).*

*The reports and responses of the governments at the conclusion of each visit carried out by the CPT delegation in the different States are generally published in one language only, English [EN] or French [FR].*

### Report and responses of the Turkish Government

visit from 27 February to 3 March 1999

CPT/Inf (2000) 17 [EN] and CPT/Inf (2000) 18 [EN]

### Preliminary observations and response of the Turkish Government

visit from 16 to 24 July 2000

CPT/Inf (2000) 19 [EN]

### Report and responses of the Moldovan Government

visit in October 1998

CPT/Inf (2000) 20 [FR] and CPT/Inf (2000) 21 [FR]

### Report and responses of the Turkish Government

visit from 19 to 23 August 1996

CPT/Inf (2001) 1 [EN]

## ECRI

*For further information: <http://www.ecri.coe.int/>*

### ECRI's work on general themes

ECRI's General Policy Recommendation No. 6: combating the dissemination of racist, xenophobic and antisemitic material via the Internet CRI (2001) 1

## Equality between women and men

### List of documents concerning equality between women and men

EG (2001) 1

### Council of Europe action in the field of equality between women and men – Annual report for 2000

EG (2001) 2

### Legislation in the member States of the Council of Europe in the field of violence against women

EG (2001) 3

### Equality between women and men in the framework of the Council of Europe co-operation programmes and the Stability Pact for South-Eastern Europe – Implementation of activities in 2000

EG (2001) 4

### Council of Europe action in the field of equality between women and men

EG (2001) 5

### Positive action in the field of equality between women and men

EG-S-PA (2000) 7

### Proceedings of the 2000 Information Forum on national policies in the field of equality between women and men – Human rights of girls and young women in Europe: questions and challenges for the 21st century

EG/SLOVAKIA (2000) 13

### Proceedings of the seminar "A new social contract between women and men: the role of education"

EG/ED (2000) 13

## Media

*For further information: <http://www.humanrights.coe.int/media/>*

### Council of Europe co-operation and assistance programmes in the media field

DH-MM (2001) 5

### Case-law concerning Article 10 of the European Convention on Human Rights

Updated to 31 December 2000

DH-MM (2001) 6

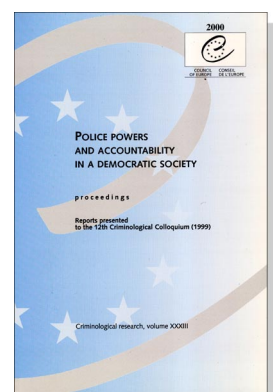
## Police

*For further information: <http://www.humanrights.coe.int/police>*

### Police powers and accountability in a democratic society – Proceedings, 12th Criminological Colloquium, 1999

Criminological Research No. 33  
(2000) ISBN 92-871-4516-4

The position of the police in both the old democracies and in societies in transition is affected by occasional conflicting legal and professional standards for police work, increasing public expectations, changing crime

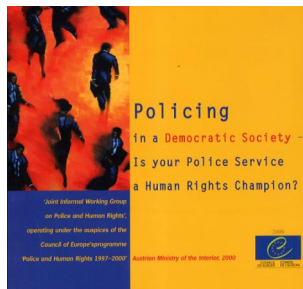


patterns, stricter standards of effectiveness and accountability and, frequently, inadequacies in the available financial and other resources.

### **Policing in a Democratic Society – Is your Police Service a Human Rights Champion?**

There are 3 language versions: English, French and German H (2000) 9

The guide aims to increase understanding of human rights and their application to everyday, operational policing.



### **VIP Guide – Vision Innovation and Professionalism in Policing Violence against Women and Children**

DH AW PO (2000) 13

The guide is an awareness-raising tool, designed for self-directed study by individual police officers. It also has a second, subsidiary role as a resource for police trainers.

### **The human rights challenge in police practice – A reference brochure**

This brochure has been written as a ready European reference source for all police officers. It is a part of a package of human rights training materials developed by the Police and Human Rights 1997-2000 programme.

## **Human Rights Co-operation and Awareness programmes**

### **Short guide to the European Convention on Human Rights**

by Donna Gomien. Published in 1998 in English and French and now in Russian. H (2001) 1

### **Etude de compatibilité du droit de la République d'Arménie avec les exigences de la Convention européenne des Droits de l'Homme**

Available in French only.

### **A study on the compatibility of Georgian law with the requirements of the Convention for the protection of human rights and fundamental freedoms and its protocols: pilot project**

Available in English only.

## **Commissioner for Human Rights**

*The documents relating to the activity of the Commissioner are available on his web site: <http://www.commissioner.coe.int/>*

### **Report on the visit to the Russian Federation and the Republic of Chechnya**

25 February-4 March 2001

### **Report on the visit to Spain and the Basque Country**

5-8th February 2001

### **Conclusions of the Meeting between the Western European Ombudsmen and the Council of Europe Commissioner for Human Rights**

Paris, 1 December 2000

### **Conclusions of the Seminar on "The Role of Monotheist Religions vis-à-vis Armed Conflict"**

Syracuse, 7-9 December 2000

### **Meeting of the Commissioner with Human Rights Non-Governmental Organisations**

Paris, 18 and 19 December 2000





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