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HUMAN RIGHTS INFORMATION BULLETIN

No. 53

March-June 2001

Directorate General of Human Rights
September 2001

Contents

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.

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Human rights information bulletin

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I. Convention activities

A. European Convention on Human Rights

1. State of signatures and ratifications of the Convention and its protocols at 30 June 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	25/01/01	—	25/01/01	—	25/01/01	—
Austria	13/12/57	03/09/58	13/12/57	03/09/58	16/09/63	18/09/69
Azerbaijan	25/01/01	—	25/01/01	—	25/01/01	—
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	04/11/00
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*
04/04/002	1/09/00	02/10/96	02/10/96	—	—
22/01/96	22/01/96	—	—	—	—
25/01/01	—	25/01/01	—	—	—
28/04/83	05/01/84	19/03/85	14/05/86	04/11/00	—
25/01/01	—	25/01/01	—	—	—
28/04/83	10/12/98	—	—	04/11/00	—
07/05/99	29/09/99	03/11/93	04/11/00	—	—
06/11/96	05/11/97	06/11/96	05/11/97	—	—
07/05/99	19/01/00	02/12/99	15/09/00	04/11/00	—
21/02/91	18/03/92	21/02/91	18/03/92	04/11/00	—
28/04/83	01/12/83	22/11/84	18/08/88	—	—
14/05/93	17/04/98	14/05/93	16/04/96	04/11/00	—
05/05/89	10/05/90	05/05/89	10/05/90	04/11/00	—
28/04/83	17/02/86	22/11/84	17/02/86	—	—
17/06/99	13/04/00	17/06/99	13/04/00	04/11/00	**15/06/01**
28/04/83	05/07/89	19/03/85	—	04/11/00	—
02/05/83	08/09/98	22/11/84	29/10/87	04/11/00	—
06/11/90	05/11/92	06/11/90	05/11/92	04/11/00	—
24/04/85	22/05/87	19/03/85	22/05/87	04/11/00	—
24/06/94	24/06/94	11/12/84	—	04/11/00	—
21/10/83	29/12/88	22/11/84	07/11/91	04/11/00	—
26/06/98	07/05/99	21/03/97	27/06/97	04/11/00	—
15/11/90	15/11/90	—	—	04/11/00	—
18/01/99	08/07/99	14/05/93	20/06/95	—	—
28/04/83	19/02/85	22/11/84	19/04/89	04/11/00	—
26/03/91	26/03/91	—	—	—	—
02/05/96	12/09/97	02/05/96	12/09/97	04/11/00	—
23/06/82	28/04/83	25/04/86	22/11/84	04/11/00	—
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	—	04/11/00	—
15/12/93	20/06/94	04/11/93	20/06/94	04/11/00	—
16/04/97	—	28/02/96	05/05/98	04/11/00	—
01/03/89	22/03/89	01/03/89	22/03/89	04/11/00	—
21/02/91	18/03/92	21/02/91	18/03/92	04/11/00	—
14/05/93	28/06/94	14/05/93	28/06/94	**07/03/01**	—
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	04/11/00	—
—	—	14/03/85	—	**18/04/01**	—
05/05/97	04/04/00	19/12/96	11/09/97	04/11/00	—
27/01/99	20/05/99	—	—	—	—

2. Reservations and declarations

European Convention on Human Rights

Finland

Partial withdrawal of reservation transmitted by a Note Verbale from the Permanent Representation of Finland, dated 16 May 2001, registered at the Secretariat General on 16 May 2001 – Or. Engl.

The reservation now reads as follows:

For the time being, Finland cannot guarantee a right to an oral hearing insofar as the current Finnish laws do not provide such a right. This applies to:

1. proceedings before the Supreme Court in accordance with Chapter 30, Section 20, of the Code of Judicial Procedure and proceedings before the Courts of Appeal as regards the consideration of petition, civil and criminal cases to which Chapter 26 (661/1978), Sections 7 and 8, of the Code of Judicial Procedure are applied if the decision of a District Court has been made before 1 May 1998, when the amendments made to the provisions concerning proceedings before Courts of Appeal entered into force; and the consideration of criminal cases before the Supreme Court and the Courts of Appeal if the case has been pending before a District Court at the time of entry into force of the Criminal Proceedings Act on 1 October 1997 and to which existing provisions have been applied by the District Court;
2. proceedings which are held before the Insurance Court as the Court of Final Instance, in accordance with Section 9 of the Insurance Court Act, if they concern an appeal which has become pending before the entry into force of the Act Amending the Insurance Court Act on 1 April 1999;
3. proceedings before the Appellate Board for Social Insurance, in accordance with Section 8 of the Decree on the Appellate Board for Social Insurance, if they concern an appeal which has become pending before the entry into force of the Act Amending the Health Insurance Act on 1 April 1999.

Protocol No. 12

Georgia

Declaration contained in the instrument of ratification deposited on 15 June 2001 – Or. Engl./Geo.

Georgia declines its responsibility for the violations of the provisions of the Protocol on the territories of Abkhazia and Tskhinvali region until the full jurisdiction of Georgia is restored over these territories.

3. European Court of Human Rights

Between 1 March and 30 June 2001, the Court dealt with 2 739 (2 638) cases:

- *1 819 (1 506) applications declared inadmissible*
- *83 (267) applications struck off*
- *309 (315) applications declared admissible*
- *309 (319) applications communicated to governments*
- *219 (231) 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/.

1. Judgments

D.N. v. Switerland

Judgment of 29 March 2001

Facts

The applicant applied for release from psychiatric detention and, on being refused by the chief medical officer, filed an application with the cantonal Administrative Appeals Commission. She requested that the expert appointed to examine her should not subsequently act as specialised judge on the Commission. R.W. was appointed as rapporteur. After interviewing the applicant, he informed her that he would propose that the Commission dismiss her application. In his written opinion, he diagnosed schizophrenia and recommended dismissal of the applicant's application. For the hearing of the applicant's case, the Commission was composed of the president (a professional judge) and five other judges, including R.W., the only expert in psychiatry. The Commission dismissed the application, referring in its decision to R.W.'s opinion. The applicant's public law appeal was rejected by the Federal Court.

Law

Article 5 (4) – It is not disputed that the Administrative Appeals Commission was in principle a "court" within the meaning of this provision, under which States are granted a certain freedom to choose the most appropriate system for judicial review. Although it is not always necessary that the proceedings under Article 5 (4) have the same guarantees as those under Article 6, they must have a judicial character and provide appropriate guarantees. While Article 5 (4) does not specifically require that the court be independent and impartial, it would be inconceivable that, relating to such a sensitive issue as the deprivation of liberty of persons of unsound mind, it should not envisage the impartiality of the court as a fundamental requirement. As to the present case, in view of the various activities carried out by R.W., it differs from proceedings in which a judge rapporteur is in a position, after the hearing and during the court's deliberations, to examine and comment upon specialised evidence; indeed, while it is to be expected that a court-appointed expert will transmit his opinion to the court and to the parties, it is unusual for an expert judge to have formed an opinion and disclosed it to the parties before the hearing. While according to the Federal Court's case-law, the position of an expert in the context of psychiatric detention differs substantially from that of an expert in proceedings in which evidence was taken, experts in either proceedings are only called upon to assist a court with relevant expert advice, without having adjudicative functions. It is for the court to assess such advice together with all other relevant information and evidence and an issue will arise as to its objective impartiality if it is called upon to assess evidence which was previously given by one of its judges as an expert. Consequently, as a result of R.W.'s position in the proceedings, he had a preconceived opinion as to the applicant's request for release and was not approaching her case with due impartiality. The applicant's fears would have been reinforced by R.W.'s position in the Commission, where he was the sole psychiatric expert as well as the only person who had interviewed her. In these circumstances, the applicant's apprehension that R.W. lacked the necessary impartiality were justified.

Conclusion: violation (12 votes to 5)

Article 41

The Court awarded the applicant 3 000 Swiss francs (CHF) in respect of non-pecuniary damage and also made an award in respect of costs.

Streletz and Others v. Germany and K.-H.W. v. Germany

Judgments of 22 March 2001

In two judgments delivered at Strasbourg on 22 March 2001 in the cases of Streletz, Kessler and Krenz v. Germany and K.-H.W. v. Germany, the European Court of Human Rights held, unanimously and by fourteen votes to three respectively, that there had been no violation of Article 7 para. 1 of the European

Convention on Human Rights (no punishment without law). The Court also held, unanimously in both cases, that there had been no discrimination contrary to Article 14 of the Convention (prohibition of discrimination) taken together with Article 7 of the Convention.

Principal facts

Three of the applicants, all German nationals, were senior officials of the German Democratic Republic (GDR): Fritz Streletz, who was born in 1926, was a Deputy Minister of Defence; Heinz Kessler, who was born in 1920, was a Minister of Defence; Egon Krenz, who was born in 1937, was President of the Council of State.

The fourth applicant, Mr K.-H.W., likewise a German national, was born in 1952. He was a member of the GDR's National People's Army (NVA) and was stationed as a border guard on the border between the two German States.

All four applicants were convicted by the courts of the Federal Republic of Germany (FRG), after German unification on 3 October 1990, under the relevant provisions of the GDR's Criminal Code, and subsequently those of the FRG's Criminal Code, which were more lenient than those of the GDR.

Mr Streletz, Mr Kessler and Mr Krenz were sentenced to terms of imprisonment of five-and-a-half years, seven-and-a-half years and six-and-a-half years respectively for intentional homicide as indirect principals (*Totschlag in mittelbarer Täterschaft*), on the ground that through their participation in decisions of the GDR's highest authorities, such as the National Defence Council or the *Politbüro*, concerning the regime for the policing of the GDR's border (*Grenzregime*), they were responsible for the deaths of a number of people who had tried to flee the GDR across the intra-German border between 1971 and 1989.

Mr W. was sentenced to one year and ten months' imprisonment, suspended, for intentional homicide (*Totschlag*), on the ground that by using his firearm he had caused the death of a person who had attempted to escape from the GDR across the border in 1972.

The applicants' convictions were upheld by the Federal Court of Justice and declared by the Federal Constitutional Court to be compatible with the Constitution.

Summary of the judgments

Complaints

The applicants submitted that their actions, at the time when they were committed, did not constitute offences under the law of the GDR or international law and that their conviction by the German courts had therefore breached Article 7 para. 1 of the European Convention on Human Rights (no punishment without law). They also relied on Articles 1 (obligation to respect human rights) and 2 para. 2 (exceptions to the right to life) of the Convention.

Decisions of the Court

The reasoning of the two judgments is largely identical, except where expressly indicated below.

Article 7 para. 1

The Court observed that its task was to consider, from the standpoint of Article 7 para. 1 of the Convention, whether, at the time when they were committed, the applicants' acts constituted offences defined with sufficient accessibility and foreseeability by the law of the GDR or international law.

a. National law

i. Legal basis for the convictions

The Court noted that the legal basis for the applicants' convictions was the criminal law of the GDR applicable at the material time, and that their sentences corresponded in principle to those prescribed in the relevant provisions of the GDR's legislation; in the event, the sentences imposed on the applicants had been lower, thanks to the principle of applying the more lenient law, which was that of the FRG.

ii. Grounds of justification under GDR law

The applicants relied in particular on section 17 (2) of the GDR's People's Police Act and section 27 (2) of the State Borders Act.

In the light of the principles enshrined in the GDR's Constitution and other legal provisions (which expressly included the principles of proportionality and the need to preserve human life when firearms were used), the Court considered that that the applicants' conviction by the German courts, which had interpreted those provisions and applied them to the cases in issue, did not appear at first sight to have been either arbitrary or contrary to Article 7 para. 1 of the Convention.

iii. Grounds of justification derived from GDR State practice

The Court pointed out that although the aim of the GDR's State practice had been to protect the border between the two German States "at all costs" in order to preserve the GDR's existence, which was threatened by the massive exodus of its own population, the reason of State thus invoked had to be limited by the principles enunciated in the Constitution and legislation of the GDR itself; above all, it had to respect the need to preserve human life, enshrined in the GDR's Constitution, People's Police Act and State Borders Act, regard being had to the fact that even at the material time the right to life was already, internationally, the supreme value in the hierarchy of human rights.

iv. Foreseeability of the convictions

Streletz, Kessler and Krenz v. Germany – The Court considered that the broad divide between the GDR's legislation and its practice was to a great extent the work of the applicants themselves. Because of the very senior positions they occupied in the State apparatus, they evidently could not have been ignorant of the GDR's Constitution and legislation, nor of its international obligations and the criticisms of its border-policing regime that had been made internationally. Moreover, they themselves had implemented or maintained that regime, by superimposing on the statutory provisions, published in the GDR's Official Gazette, secret orders and service instructions on the consolidation and improvement of the border-protection installations and the use of firearms. The applicants had therefore been directly responsible for the situation which had obtained at the border between the two German States from the beginning of the 1960s until the fall of the Berlin Wall in 1989.

K.-H.W. v. Germany – The Court took the view that even a private soldier could not show total, blind obedience to orders which flagrantly infringed not only the GDR's own legal principles but also internationally recognised human rights, in particular the right to life, the supreme value in the hierarchy of human rights.

Even though the applicant was in a particularly difficult situation on the spot, in view of the political context in the GDR at the material time, such orders could not justify firing on unarmed persons who were merely trying to leave the country.

In addition, the Court noted that the German courts had examined in detail the extenuating circumstances in the applicant's favour and had duly taken account of the differences in responsibility between the former leaders of the GDR and the applicant by sentencing the former to terms of imprisonment and the latter to a suspended sentence subject to probation.

Reasoning common to both judgments – The Court considered that it was legitimate for a State governed by the rule of law to bring criminal proceedings against persons who had committed crimes under a former regime; similarly, the courts of such a State, having taken the place of those which existed previously, could not be criticised for applying and interpreting the legal provisions in force at the material time in the light of the principles governing a State subject to the rule of law.

Moreover, regard being had to the pre-eminence of the right to life in all international instruments on the protection of human rights, including the Convention itself, in which the right to life was guaranteed by Article 2, the Court considered that the German courts' strict interpretation of the GDR's legislation in the present case was compatible with Article 7 para. 1 of the Convention.

Lastly, the Court considered that a State practice such as the GDR's border-policing policy, which flagrantly infringed human rights and above all the right to life, the supreme value in the international hierarchy of human rights, could not be covered by the protection of Article 7 para. 1 of the Convention. That practice, which emptied of its substance the legislation on which it was supposed to be based, and which was imposed on all organs of the GDR, including its judicial bodies, could not be described as "law" within the meaning of Article 7 of the Convention.

Having regard to all of the above considerations, the Court held that at the time when they were committed the applicants' acts constituted offences defined with sufficient accessibility and foreseeability in GDR law.

b. International law

i. Applicable rules

The Court considered that it was its duty to examine the cases from the standpoint of the principles of international law also, particularly those relating to the international protection of human rights, to which the German courts had referred.

ii. International protection of the right to life

In that connection, the Court noted in the first place that in the course of the development of that protection the relevant conventions and other instruments had constantly affirmed the pre-eminence of the right to life.

It held that, regard being had to the arguments set out above, the applicants' acts were not justified in any way under the exceptions to the right to life contemplated in Article 2 para. 2 of the Convention.

iii. International protection of the freedom of movement

Like Article 2 para. 2 of Protocol No. 4 to the Convention, Article 12 para. 2 of the International Covenant on Civil and Political Rights provided: "Everyone shall be free to leave any country, including his own."

iv. The GDR's State responsibility and the applicants' individual responsibility

If the GDR still existed, it would be responsible from the viewpoint of international law for the acts concerned. It remained to be established that alongside that State responsibility the applicants individually bore criminal responsibility at the material time. Even supposing that such responsibility could not be inferred from the above-mentioned international instruments on the protection of human rights, it could be deduced from those instruments when they were read together with Article 95 of the GDR's Criminal Code, which explicitly provided, and from as long ago as 1968 moreover, that individual criminal responsibility was to be borne by those who violated the GDR's

international obligations or human rights and fundamental freedoms.

In the light of all of the above considerations, the Court considered that at the time when they were committed the applicants' acts also constituted offences defined with sufficient accessibility and foreseeability by the rules of international law on the protection of human rights.

In addition, the applicants' conduct could be considered, likewise under Article 7 para. 1 of the Convention, from the standpoint of other rules of international law, notably those concerning crimes against humanity. However, the conclusion reached by the Court made consideration of that point unnecessary.

c. Conclusion

Accordingly, the applicants' conviction by the German courts after reunification had not breached Article 7 para. 1.

In the light of that finding, the Court was not required to consider whether their convictions were justified under Article 7 para. 2 of the Convention.

Article 1

The applicants submitted that as former citizens of the GDR they could not rely on the constitutional principle of the non-retroactiveness of criminal statutes.

The Court held that the applicants' complaint could not be raised under Article 1 of the Convention, which was a framework provision that could not be breached on its own. It could, however, be examined under Article 14 of the Convention taken together with Article 7, as the applicants had complained in substance of discrimination they had allegedly suffered as former citizens of the GDR.

However, the Court considered that the principles applied by the Federal Constitutional Court had general scope and were therefore equally valid in respect of persons who were not former nationals of the GDR.

Accordingly, there had been no discrimination contrary to Article 14 of the Convention taken together with Article 7.

In the Streletz, Kessler and Krenz case Judges Loucaides, Zupancic and Levits expressed concurring opinions, which are annexed to the judgment. In the K.-H.W. case Judges Loucaides and Sir Nicolas Bratza expressed concurring opinions and Judges Cabral Barreto and Pellonpää partly dissenting opinions, which are annexed to the judgment.

Sutherland v. the United Kingdom

Judgment of 27 March 2001

Euan Sutherland, a British national, born in 1977 and resident in London, complained that fixing the minimum age for lawful sexual activities between men in the United Kingdom at 18, rather than 16 (the age limit between women), violated his right to respect for his private life guaranteed under Article 8 (right to respect for family life) of the European Convention on Human Rights. He also relied on Article 14 (freedom from discrimination).

Mr Sutherland had become aware, at about the age of 12, that he was sexually attracted to boys. When he was 14 he had tried going out with a girl, but the experience had confirmed for him that he could only find a fulfilling relationship with another man. He had had his first homosexual encounter when he was 16, with another person of his age who also was homosexual. They had sexual relations but were both worried about the fact that under the law, as applicable at the time, it was a criminal offence.

In 1990, 455 prosecutions had given rise to 342 convictions and, in 1991, 213 prosecutions gave rise to 169 convictions. The applicant was never prosecuted.

Following the European Commission of Human Right's report of 1 July 1997, concluding that the applicant was the victim of a violation of Article 8 of the Convention, taken in conjunction with Article 14, the United Kingdom Government proposed in June 1998 a Crime and Disorder Bill to Parliament for a reduction of the age of consent for homosexual acts between men from 18 to 16. The Sexual Offences (Amendment) Act 2000, equalising the age of consent for homosexual acts between consenting males to 16, came into force on 8 January 2001.

After the entry into force of this act, the European Court of Human Rights received a request from both parties to strike out the case, together with confirmation that the Government had reimbursed the applicant's legal costs. In the light of this information, and noting that the new provisions removed the risk or threat of prosecution which had prompted the application, the Court has struck out the case.

Cyprus v. Turkey

Judgment of 10 May 2001

In a Grand Chamber judgment delivered at Strasbourg on 10 May 2001 in the case of Cyprus v. Turkey (Application No. 25781/94), the European Court of Human Rights held, by sixteen votes to one, that the matters complained of by Cyprus in its application entailed Turkey's responsibility under the European Convention on Human Rights.

The Court held that there had been the following 14 violations of the Convention (see Decision of the Court for details):

Greek-Cypriot missing persons and their relatives

- a continuing violation of Article 2 (right to life) of the Convention concerning the failure of the authorities of the respondent State to conduct an effective investigation into the whereabouts and fate

of Greek-Cypriot missing persons who disappeared in life-threatening circumstances;

- a continuing violation of Article 5 (right to liberty and security) concerning the failure of the Turkish authorities to conduct an effective investigation into the whereabouts and fate of the Greek-Cypriot missing persons in respect of whom there was an arguable claim that they were in Turkish custody at the time of their disappearance;
- a continuing violation of Article 3 (prohibition of inhuman or degrading treatment) in that the silence of the Turkish authorities in the face of the real concerns of the relatives attained a level of severity which could only be categorised as inhuman treatment.

Home and property of displaced persons

- a continuing violation of Article 8 (right to respect for private and family life, home and correspondence) concerning the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus;
- a continuing violation of Article 1 of Protocol No. 1 (protection of property) concerning the fact that Greek-Cypriot owners of property in northern Cyprus were being denied access to and control, use and enjoyment of their property as well as any compensation for the interference with their property rights;
- a violation of Article 13 (right to an effective remedy) concerning the failure to provide to Greek Cypriots not residing in northern Cyprus any remedies to contest interferences with their rights under Article 8 and Article 1 of Protocol No. 1.

Living conditions of Greek Cypriots in Karpas region of northern Cyprus

- a violation of Article 9 (freedom of thought, conscience and religion) in respect of Greek Cypriots living in northern Cyprus, concerning the effects of restrictions on freedom of movement which limited access to places of worship and participation in other aspects of religious life;
- a violation of Article 10 (freedom of expression) in respect of Greek Cypriots living in northern Cyprus in so far as school-books destined for use in their primary school were subject to excessive measures of censorship;
- a continuing violation of Article 1 of Protocol No. 1 in respect of Greek Cypriots living in northern Cyprus in that their right to the peaceful enjoyment of their possessions was not secured in case of their permanent departure from that territory and in that, in case of death, inheritance rights of relatives living in southern Cyprus were not recognised;
- a violation of Article 2 of Protocol No. 1 (right to education) in respect of Greek Cypriots living in northern Cyprus in so far as no appropriate secondary-school facilities were available to them;
- a violation of Article 3 in that the Greek Cypriots living in the Karpas area of northern Cyprus had been subjected to discrimination amounting to degrading treatment;
- a violation of Article 8 concerning the right of Greek Cypriots living in northern Cyprus to respect for their private and family life and to respect for their home;
- a violation of Article 13 by reason of the absence, as a matter of practice, of remedies in respect of interferences by the authorities with the rights of Greek Cypriots living in northern Cyprus under Articles 3, 8, 9 and 10 of the Convention and Articles 1 and 2 of Protocol No. 1.

Rights of Turkish Cypriots living in northern Cyprus

- a violation of Article 6 (right to a fair trial) on account of the legislative practice of authorising the trial of civilians by military courts.

The Court further held that there had been no violation concerning a number of complaints, including all those raised under: Article 4 (prohibition of slavery and forced labour), Article 11 (freedom of assembly and association), Articles 14 (prohibition of discrimination), Article 17 (prohibition of abuse of rights) and Article 18 (limitation on use of restrictions on rights) read in conjunction with all those provisions. As regards a number of other allegations, the Court held that it was not necessary to consider the issues raised.

The Court also decided, unanimously, that the question of the possible application of Article 41 (just satisfaction) of the Convention was not ready for decision.

Principal facts

The case relates to the situation that has existed in northern Cyprus since the conduct of military operations there by Turkey in July and August 1974 and the continuing division of the territory of Cyprus. In connection with that situation, Cyprus maintained that Turkey had continued to violate the Convention in northern Cyprus after the adoption of two earlier reports by the European Commission of Human Rights, which were drawn up following previous applications brought by Cyprus against Turkey.

In the Convention proceedings, Cyprus contended that Turkey was accountable under the Convention for the violations alleged notwithstanding the proclamation of the "Turkish Republic of Northern Cyprus" in November 1983 and the subsequent enactment of the "TRNC Constitution" in May 1985. Cyprus maintained that the "TRNC" was an illegal entity from the standpoint of international law and pointed to the in-

ternational community's condemnation of the establishment of the "TRNC". Turkey, on the other hand, maintained that the "TRNC" was a democratic and constitutional State, which was politically independent of all other sovereign States, including Turkey. For that reason, Turkey stressed that the allegations made by Cyprus were imputable exclusively to the "TRNC" and that Turkey could not be held accountable under the Convention for the acts or omissions on which those allegations were based.

Complaints

Before the Court, Cyprus alleged violations of the Convention under Articles 1 (obligation to respect human rights), 2, 3, 4, 5, 6, 8, 9, 10, 11, 13, Articles 1 and 2 of Protocol No. 1, and Articles 14, 17, and 18. According to Cyprus, these articles were violated as a matter of administrative practice by the respondent State.

The allegations concerned the following issues:

a) Greek-Cypriot missing persons and their relatives

In respect of Greek-Cypriot missing persons, it was alleged that, if any were still in Turkish custody, this would constitute a form of slavery or servitude contrary to Article 4 and a grave breach of their right to liberty under Article 5. In addition, Cyprus maintained that there had been a violation of Articles 2 and 5 on account of Turkey's failure to carry out an investigation into the disappearance of these persons in life-threatening circumstances and to account for their whereabouts.

In respect of the relatives of missing persons, Cyprus alleged violations of Articles 3, 8 and 10 on account of the Turkish authorities' consistent and continuing failure to provide information on the fate of the missing persons.

b) Home and property of displaced persons

Cyprus complained, among other things, under Article 8 (the continuing refusal to allow Greek Cypriots to return to their homes and families in northern Cyprus; implantation of Turkish settlers in northern Cyprus to the detriment of the demographic and cultural environment of northern Cyprus), Article 1 of Protocol No. 1 (denial of access to and enjoyment of property, re-assignment of property, withholding of compensation and deprivation of title), Article 13 of the Convention (failure to provide any remedy to displaced persons in respect of the alleged violations of Article 8 and Article 1 of Protocol No. 1) and Article 14 taken in conjunction with the preceding Articles (discrimination against Greeks and Greek Cypriots as regards, among other things, enjoyment of their property). Cyprus further invoked Article 3 (discrimination against displaced persons amounting to ill-treatment), and Articles 17 (abuse of rights) and 18 (impermissible use of restrictions on rights).

c) Living conditions of Greek Cypriots in the Karpas region of northern Cyprus

As regards the Karpas Greek Cypriots, Cyprus relied on, among other things, Articles 2 (denial of adequate medical treatment and services), 3 (discriminatory treatment; in particular in view of their advanced age, the restrictions placed on them and methods of coercion used were said to amount to inhuman and degrading treatment), 5 (threat to security of person and absence of official action to prevent this), 6 (lack of a fair hearing before an independent and impartial tribunal established by law for the determination of their civil rights), 8 (interference with their right to respect for their private and family life, home and correspondence), 9 (interference with their right to manifest their religion on account of restrictions on their freedom of movement and access to places of worship), 10 (excessive censorship of school-books and restrictions on importation of Greek-language newspapers and books), 11 (impediments to their participation in bi- or inter-communal events or gatherings), 13 (denial of an effective remedy in respect of their complaints) and 14 (discrimination on racial, religious and linguistic grounds), and Articles 1 (interference with the property of deceased Greek Cypriots as well as with the property of such persons who permanently leave northern Cyprus) and 2 (denial of secondary-education facilities to Greek-Cypriot children) of Protocol No. 1.

d) Complaints relating to Turkish Cypriots, including members of the Gypsy community, living in northern Cyprus

Cyprus alleged, among other things, violations in relation to Turkish Cypriots who are opponents of the "TRNC" regime of Articles 5 (arbitrary arrest and detention), 6 (trial by "military courts"), 8 (assaults and harassment by third parties), 10 (prohibition of Greek-language newspapers and interference with the right to freedom of expression), 11 (denial of the right to associate freely with Greek Cypriots), Article 1 of Protocol No. 1 (failure to allow Turkish Cypriots to return to their properties in southern Cyprus). Violations were also alleged of Articles 3, 5, 8 and 13 and Article 2 of Protocol No. 1 in relation to the treatment of Turkish-Cypriot Gypsies living in northern Cyprus.

Decision of the Court

Preliminary issues

The Court considered, unanimously, that, notwithstanding Turkey's failure either to submit a memorial to the Court or to attend the oral hearing held on 20 September 2000 and to plead these issues afresh, it had jurisdiction to examine those preliminary issues raised by Turkey in the proceedings before the Commission which the Commission reserved for the merits stage.

The Court held, unanimously, that the applicant Government had both locus standi to bring the appli-

cation, given that the Republic of Cyprus was the sole legitimate government of Cyprus, and a legitimate legal interest in having the merits of the application examined since neither of the resolutions adopted by the Committee of Ministers of the Council of Europe on the Commission's previous reports had resulted in a decision which could be said to be dispositive of the issues raised in the application. Furthermore, the Court, unanimously, confirmed the Commission's conclusion that situations which ended more than six months before the date of introduction of the application (22 May 1994) fell outside the scope of its examination.

As to Turkey's denial of liability under the Convention for the allegations made against it, the Court held, by sixteen votes to one, that the facts complained of in the application fell within the "jurisdiction" of Turkey within the meaning of Article 1 of the Convention and therefore entailed the respondent State's responsibility under the Convention. In reaching this conclusion, the Court noted that such a finding was consistent with its earlier statements in its Loizidou v. Turkey (merits) judgment. In that judgment, the Court had noted that Turkey exercised effective overall control of northern Cyprus through its military presence there, with the result that its responsibility under the Convention was engaged for the policies and actions of the "TRNC" authorities. In the instant case, the Court stressed that Turkey's responsibility under the Convention could not be confined to the acts of its own soldiers and officials operating in northern Cyprus but was also engaged by virtue of the acts of the local administration ("the TRNC"), which survived by virtue of Turkish military and other support.

The Court further held, by ten votes to seven, that, for the purposes of the exhaustion requirements under the former Article 26 (current Article 35 para. 1), remedies available in the "TRNC" may be regarded as "domestic remedies" of the respondent State and that the question of the effectiveness of these remedies had to be considered in the specific circumstances where it arose, on a case-by case basis. The majority of the Court, in line with the majority viewpoint of the Commission, considered, among other things, and with reference to the Advisory Opinion of the International Court of Justice in the Namibia case, that in situations similar to those arising in the present case, the obligation to disregard acts of *de facto* entities, like the "TRNC", was far from absolute. For the Court, life went on in the territory concerned for its inhabitants and that life must be made tolerable and be protected by the *de facto* authorities, including their courts. It considered that, and in the interests of the inhabitants, the acts of those authorities could not simply be ignored by third States or by international institutions, especially courts. To hold otherwise would amount to stripping the inhabitants of the territory of all their rights whenever they were discussed in an international context, which would amount to depriving them even of the minimum standard of rights to which they were entitled. In reaching this conclusion, the Court's majority stressed that its reasoning did not in any way legitimise the "TRNC" and reaffirmed the view that the government of the Republic of Cyprus remained the sole legitimate government of Cyprus.

a) Greek-Cypriot missing persons and their relatives

The Court, unanimously, found that there had been no violation of Article 2 by reason of an alleged violation of a substantive obligation under that Article in respect of any of the missing persons. The evidence before it did not substantiate to the required standard that any of the missing persons were killed in circumstances engaging the respondent State's liability.

On the other hand, the Court found, by sixteen votes to one, that there had been a continuing violation of Article 2 on account of the failure of the authorities of the respondent State to conduct an effective investigation into the whereabouts and fate of Greek-Cypriot missing persons who disappeared in life-threatening circumstances.

The Court concluded, unanimously, that no violation of Article 4 had been established.

Although it found, unanimously, that it had not been established that, during the period under consideration, any of the missing persons were actually in detention, the Court ruled, by sixteen votes to one, that there had been a continuing violation of Article 5 by virtue of the failure of the authorities of the respondent State to conduct an effective investigation into the whereabouts and fate of the Greek-Cypriot missing persons in respect of whom there was an arguable claim that they were in Turkish custody at the time of their disappearance.

As to the relatives of the Greek-Cypriot missing persons, the Court held, by sixteen votes to one, that there had been a continuing violation of Article 3. In the Court's opinion, the silence of the authorities of the respondent State in the face of the real concerns of the relatives attained a level of severity which could only be categorised as inhuman treatment.

Having regard to that conclusion, the Court held, unanimously, that it was not necessary to examine whether Articles 8 and 10 of the Convention had been violated in respect of the relatives of the Greek-Cypriot missing persons.

b) Home and property of displaced persons

The Court held, by sixteen votes to one, that there had been a continuing violation of Article 8 by reason of the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus. Having regard to that conclusion, the Court found, unanimously, that it was not necessary to examine whether there had been a further violation of that Article by reason of the alleged manipulation of the demo-

graphic and cultural environment of the Greek-Cypriot displaced persons' homes in northern Cyprus. As to the applicant Government's complaint under Article 8 concerning the interference with the right to respect for family life on account of the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus, the Court held, unanimously, that this complaint fell to be considered in the context of their allegations in respect of the living conditions of the Karpas Greek Cypriots.

Furthermore, the Court held, by sixteen votes to one, that there had been a continuing violation of Article 1 of Protocol No. 1 by virtue of the fact that Greek-Cypriot owners of property in northern Cyprus were being denied access to and control, use and enjoyment of their property as well as any compensation for the interference with their property rights.

The Court also held, by sixteen votes to one, that there had been a violation of Article 13 by reason of the failure to provide to Greek Cypriots not residing in northern Cyprus any remedies to contest interferences with their rights under Article 8 and Article 1 of Protocol No. 1. It did not find it necessary (unanimously) to examine whether in this case there had been a violation of Article 14 taken in conjunction with Articles 8 and 13 and Article 1 of Protocol No. 1, or whether the alleged discriminatory treatment of Greek-Cypriot displaced persons also gave rise to a breach of Article 3. It was also of the unanimous view that it was not necessary to examine separately the applicant Government's complaints under Articles 17 and 18, having regard to its findings under Articles 8 and 13 and Article 1 of Protocol No. 1.

c) Living conditions of Greek Cypriots in Karpas region of northern Cyprus

The Court held, by sixteen votes to one, that there had been a violation of Article 9 in respect of Greek Cypriots living in northern Cyprus. As regards Maronites living in northern Cyprus it found, unanimously, no violation of Article 9. The Court also held, by sixteen votes to one, that there had been a violation of Article 10 in respect of Greek Cypriots living in northern Cyprus in so far as school-books destined for use in their primary school were subject to excessive measures of censorship.

The Court further held, by sixteen votes to one, that there had been a continuing violation of Article 1 of Protocol No. 1 in respect of Greek Cypriots living in northern Cyprus in that their right to the peaceful enjoyment of their possessions was not secured in case of their permanent departure from that territory and in that, in case of death, inheritance rights of relatives living in southern Cyprus were not recognised.

The Court also ruled, by sixteen votes to one, that there had been a violation of Article 2 of Protocol No. 1 in respect of Greek Cypriots living in northern Cyprus in so far as no appropriate secondary-school facilities were available to them.

In addition, the Court found, by sixteen votes to one, that there had been a violation of Article 3 in that the Greek Cypriots living in the Karpas area of northern Cyprus had been subjected to discrimination amounting to degrading treatment. It observed in this connection that the Karpas Greek-Cypriot population was compelled to live in a situation of isolation and that its members were controlled and restricted in their movements and had no prospect of renewing or developing their community. For the Court, the conditions under which the population was condemned to live were debasing and violated the very notion of respect for the human dignity of its members. The discriminatory treatment attained a level of severity which amounted to degrading treatment.

The Court further held, by sixteen votes to one, that, from an overall standpoint, there had been a violation of Article 8 concerning the right of Greek Cypriots living in northern Cyprus to respect for their private and family life and to respect for their home. In this connection the Court noted that the population concerned was subjected to serious restrictions on the exercise of these rights, including monitoring of its members' movements and contacts. The surveillance effected by the authorities even extended to the physical presence of State agents in the homes of Greek Cypriots on the occasion of social or other visits paid by third parties, including family members. Having regard to that conclusion, the Court found, unanimously, that it was not necessary to examine separately the applicant Government's complaint under Article 8 concerning the effect of the respondent State's alleged colonisation policy on the demographic and cultural environment of the Greek Cypriots' homes. The Court further found, unanimously, no violation of Article 8 concerning the right to respect for correspondence by reason of an alleged practice of interference with the right of Greek Cypriots living in northern Cyprus to respect for their correspondence.

The Court found, by sixteen votes to one, that there had been a violation of Article 13 by reason of the absence, as a matter of practice, of remedies in respect of interferences by the authorities with the rights of Greek Cypriots living in northern Cyprus under Articles 3, 8, 9 and 10 of the Convention and Articles 1 and 2 of Protocol No. 1. On the other hand, it held, by eleven votes to six, that no violation of Article 13 had been established by reason of the alleged absence of remedies in respect of interferences by private persons with the rights of Greek Cypriots living in northern Cyprus under Article 8 and Article 1 of Protocol No. 1.

The Court held, by sixteen votes to one, that no violation of Article 2 had been established by reason of an alleged practice of denying access to medical services to Greek Cypriots and Maronites living in northern Cyprus and, by the same margin, that there had

been no violation of Article 5. Furthermore, by eleven votes to six, it held that no violation of Article 6 had been established in respect of Greek Cypriots living in northern Cyprus by reason of an alleged practice of denying them a fair hearing by an independent and impartial tribunal in the determination of their civil rights and obligations. The Court also held, unanimously, that no violation of Article 11 had been established by reason of an alleged practice of denying Greek Cypriots living in northern Cyprus the right to freedom of association and that no violation of Article 1 of Protocol No. 1 had been established by virtue of an alleged practice of failing to protect the property of Greek Cypriots living in northern Cyprus against interferences by private persons.

The Court decided, unanimously, that it was not necessary to examine whether there had been a violation of Article 14 taken in conjunction with Article 3 in respect of Greek Cypriots living in northern Cyprus, having regard to its finding under Article 3 and, by fourteen votes to three, that, having regard to the particular circumstances of this case, it was not necessary to for it to examine whether there had been a breach of Article 14 taken in conjunction with other relevant Articles.

d) Right of displaced Greek Cypriots to hold elections

The Court held, unanimously, that it was not necessary to examine whether the facts disclosed a violation of the right of displaced Greek Cypriots to hold free elections, as guaranteed by Article 3 of Protocol No. 1.

e) Rights of Turkish Cypriots, including members of Gypsy community, living in northern Cyprus

Under this heading, the Court, unanimously, declined jurisdiction to examine those aspects of the applicant Government's complaints under Articles 6, 8, 10 and 11 in respect of political opponents of the regime in the "TRNC" as well as their complaints under Articles 1 and 2 of Protocol No. 1 in respect of the Turkish-Cypriot Gypsy community, which were held by the Commission not to be within the scope of the case as declared admissible.

The Court found, by sixteen votes to one, that there had been a violation of Article 6 on account of the legislative practice of authorising the trial of civilians by military courts.

The Court further held, unanimously, that there had been no violation of Articles 3, 5, 8, 10 and 11 concerning the rights of Turkish Cypriot opponents of the regime in northern Cyprus by reason of an alleged administrative practice, including an alleged practice of failing to protect their rights under these Articles. By sixteen votes to one, the Court found no violation of Articles 3, 5, 8 and 14 concerning the rights of members of the Turkish-Cypriot Gypsy community by reason of an alleged administrative practice, including an alleged practice of failing to protect this group's rights under these Articles.

It held, unanimously, that: no violation of Article 10 had been established by reason of an alleged practice of restricting the right of Turkish Cypriots living in northern Cyprus to receive information from the Greek-language press; no violation of Article 11 had been established by reason of an alleged practice of interference with the right to freedom of association or assembly of Turkish Cypriots living in northern Cyprus; no violation of Article 1 of Protocol No. 1 had been established by reason of an alleged administrative practice, including an alleged practice of failing to secure enjoyment of their possessions in southern Cyprus to Turkish Cypriots living in northern Cyprus.

By eleven votes to six, the Court found that no violation of Article 13 had been established by reason of an alleged practice of failing to secure effective remedies to Turkish Cypriots living in northern Cyprus.

f) Alleged violations of Articles 1, 17, 18 and former Article 32 para. 4 of the Convention

The Court held unanimously that it was not necessary to examine separately the applicant Government's complaints under these articles.

Judges Palm, Costa, Jungwiert, Panţîru, Levits, Kovler, Fuad and Marcus-Helmons expressed partly dissenting opinions, which are annexed to the judgment.

Z. and Others v. the United Kingdom

Judgment of 10 May 2001

The Court held:

- Unanimously, that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights;
- Unanimously, that no separate issues arose under Article 8 (right to respect for family life) of the Convention;
- By 12 votes to five, that there had been no violation of Article 6 (right to a fair trial) of the Convention;
- By 15 votes to two, that there had been a violation of Article 13 (right to an effective remedy) of the Convention.

Under Article 41 (just satisfaction) of the Convention, the Court awarded in respect of pecuniary damage 8 000 pounds sterling (GBP) to Z., GBP 100 000 to A., GBP 80 000 to B., and GBP 4 000 to C. The Court also awarded GBP 32 000 to each applicant for non-pecuniary damage and a total of GBP 39 000 for costs and expenses.

Principal facts

The applicants, four siblings, Z., a girl born in 1982, A., a boy born in 1984, B., a boy born in 1986 and C., a girl born in 1988 are all British nationals.

In October 1987, the applicants' family was referred to the social services by its health visitor because of concerns about the children, including reports that Z. was stealing food.

Over the next four-and-a-half years, the social services monitored the family and provided various forms of support to the parents. During this period, problems continued. In October 1989, when investigating a burglary, the police found the children's rooms in a filthy state, the mattresses being soaked with urine. In March 1990, it was reported that Z. and A were stealing food from bins in the school. In September 1990, A. and B. were reported as having bruises on their faces. On a number of occasions, it was reported that the children were locked in their rooms and were smearing excrement on the windows. Finally, on 10 June 1992, the children were placed in emergency foster care on the demand of their mother who said that, if they were not removed from her care, she would batter them. The consultant psychologist who examined the children found that the older three were showing signs of serious psychological disturbance and noted that it was the worst case of neglect and emotional abuse she had seen.

The Official Solicitor, acting for the applicants, commenced proceedings against the local authority claiming damages for negligence on the basis that the authority had failed to have proper regard for the children's welfare and to take effective steps to protect them. Following proceedings which terminated in the House of Lords, the applicants' claims were struck out. In the judgment given on 29 June 1995, which concerned three cases, Lord Browne-Wilkinson held, among other things, that public policy considerations were such that local authorities should not be held liable in negligence in respect of the exercise of their statutory duties safeguarding the welfare of children.

Complaints

The applicants alleged that the local authority had failed to take adequate protective measures in respect of the severe neglect and abuse which they were known to be suffering due to their ill-treatment by their parents and that they had no access to court or to an effective remedy in respect of this. They invoked Articles 3, 6, 8 and 13 of the Convention.

Decision of the Court

Article 3

The Court re-iterated that Article 3 enshrined one of the most fundamental values of a democratic society, prohibiting in absolute terms torture or inhuman or degrading treatment or punishment. States which had ratified the European Convention on Human Rights were bound to ensure that individuals within their jurisdiction were not subjected to inhuman or degrading treatment, including such ill-treatment administered by private individuals. These measures should provide effective protection, in particular, of children and other vulnerable people and include reasonable steps to prevent ill-treatment of which the authorities had or ought to have had knowledge.

There was no dispute that the neglect and abuse suffered by the four child applicants reached the threshold of inhuman and degrading treatment. The Government did not contest the Commission's finding that the treatment suffered by the four applicants reached the level of severity prohibited by Article 3 and that the State failed in its positive obligation under Article 3 of the Convention to provide the applicants with adequate protection against inhuman and degrading treatment. This treatment was brought to the attention of the local authority, at the earliest in October 1987, which was under a statutory duty to protect the children and had a range of powers available to it, including removing them from their home. The children were however only taken into emergency care, at the insistence of their mother, on 30 April 1992.

Over the intervening period of four-and-a-half years, they had been subjected in their home to what the child consultant psychiatrist who examined them referred to as horrific experiences. The Criminal Injuries Compensation Board had also found that the children had been subject to appalling neglect over an extended period and suffered physical and psychological injury directly attributable to a crime of violence. The Court acknowledged the difficult and sensitive decisions facing social services and the important countervailing principle of respecting and preserving family life. The present case however left no doubt as to the failure of the system to protect the applicants from serious, long-term neglect and abuse. Accordingly, there had been a violation of Article 3.

Article 8

Having regard to its finding of a violation of Article 3, the Court considered that no separate issue arose under Article 8.

Article 6

Concerning the applicability of Article 6, the Court was satisfied that, at the outset of the proceedings, there was a serious and genuine dispute about the existence of the right asserted by the applicants under the domestic law of negligence and that the applicants had, on at least arguable grounds, a claim under domestic law. Article 6 was therefore applicable to the proceedings brought by the applicants alleging negligence by the local authority.

Concerning compliance with Article 6, the Court found that the outcome of the domestic proceedings brought was that the applicants, and any children with complaints such as theirs, could not sue a local author-

ity in negligence for compensation, however foreseeable – and severe – the harm suffered and however unreasonable the conduct of the local authority in failing to take steps to prevent that harm. However, this did not result from any procedural bar or from the operation of any immunity which restricted access to court. The striking out of the applicants' claim resulted from the application by the domestic courts of substantive law principles and it was not for this Court to rule on the appropriate content of domestic law. Nonetheless, the applicants were correct in their assertions that the gap they had identified in domestic law was one that gave rise to an issue under the Convention, but in the Court's view it was an issue under Article 13, not Article 6 para. 1. The applicants' complaints were essentially that that they had not been afforded a remedy in the courts for the failure to ensure them the level of protection against abuse to which they were entitled under Article 3. Considering that it was under Article 13 that the applicants' right to a remedy should be examined, the Court found no violation of Article 6.

Article 13

In deciding whether there had been a violation of Article 13, the Court observed that where alleged failure by the authorities to protect people from the acts of others was concerned, there should be available to the victim or the victim's family a mechanism for establishing any liability of State officials or bodies for acts or omissions involving the breach of their rights under the Convention. Furthermore, in the case of a breach of Articles 2 and 3, which ranked as the most fundamental provisions of the Convention, compensation for the non-pecuniary damage flowing from the breach should in principle be available as part of the range of redress.

The applicants had argued that, in their case, an effective remedy could only be provided by adversarial court proceedings against the public body responsible for the breach. The Court noted that the Government had conceded that the range of remedies at the disposal of the applicants was insufficiently effective and that, in the future, under the Human Rights Act 1998, victims of human rights breaches would be able to bring proceedings in courts empowered to award damages.

The Court found that the applicants did not have available to them an appropriate means of obtaining a determination of their allegations that the local authority had failed to protect them from inhuman and degrading treatment or the possibility of obtaining an enforceable award of compensation for the damage suffered thereby. Consequently, they were not afforded an effective remedy in respect of the breach of Article 3 and there had, accordingly, been a violation of Article 13.

Judges Rozakis, Palm, Thomassen, Casadevall and Kovler expressed partly dissenting opinions and Lady Justice Arden and Judge Kovler expressed concurring opinions, all of which are annexed to the judgment.

T.P. and K.M. v. the United Kingdom

Judgment of 10 May 2001

The Court held unanimously that there had been:

- a violation of Article 8 (right to respect for family life) of the European Convention on Human Rights;
- no violation of Article 6 (right to a fair trial) of the Convention;
- a violation of Article 13 (right to an effective remedy).

Under Article 41 (just satisfaction) of the Convention, the Court awarded 10 000 pounds sterling (GBP) to each applicant for non-pecuniary damage and GBP 25 000 for costs and expenses.

Principal facts

This case concerns an application brought by a mother, T.P., and daughter, K.M., both British nationals, born in 1965 and 1983 respectively and resident in Chelmsford.

Between 1984 and 1987, the local authority, the London Borough of Newham, suspected that K.M. was being sexually abused. Following a case conference on 2 July 1987, K.M. was placed on the Child Protection Register under the category of emotional abuse.

On 13 November 1987, K.M., then aged four, was interviewed by a consultant child psychiatrist, Dr V. A social worker, Mr P., was present during the interview, which was videoed. In the course of the interview, K.M. disclosed that she had been abused by someone named "X". T.P.'s boyfriend, "XY", who lived with the applicants, shared the same first name, "X", as the abuser. However, K.M. indicated that "XY" was not the abuser and stated that "X" had been thrown out of the house. T.P. was informed that K.M. had disclosed that she had been sexually abused by "XY". When she became agitated and angry, Dr V. and Mr P. concluded that T.P. would be unable to protect the second applicant from abuse and that she was attempting to persuade K.M. to retract her allegation. They removed K.M. from the care of her mother immediately.

On 13 November 1987, the local authority applied successfully to Newham magistrates court for a place of safety order of 28 days.

On 24 November 1987, T.P., having excluded all men from her home, applied for the second applicant to be made a ward of court. The local authority was awarded care and control of the K.M. and T.P. was granted limited access.

In or about October 1988, T.P.'s representatives applied for access to the video of the disclosure interview. The health authority and Dr V. lodged an objection to disclosure of the video to the first applicant. On an unspecified date at or about that time, T.P.'s solicitors had

sight of the transcript. The transcript showed that K.M. had said that "XY" had not abused her and that she had identified her abuser as having been thrown out of the house by T.P. These matters were raised by the first applicant's solicitors with the local authority. On 21 November 1988, after a hearing in the High Court where the local authority recommended that the second applicant be rehabilitated to the first applicant, it was ordered by consent that K.M. remain a ward of court and that interim care and control be committed to the local authority who had leave to place her with T.P. K.M. remained with T.P. from that time onwards.

On 8 November 1990, the applicants issued proceedings making numerous allegations of negligence and breach of statutory duty against the local authority, the central allegation being that the social worker, Mr P. and the psychiatrist, Dr V. failed to investigate the facts with proper care and thoroughness. The applicants claimed that as a result of their enforced separation each of them had suffered a positive psychiatric disorder. Following proceedings which terminated in the House of Lords, the applicants' claims were struck out. In the judgment given on 29 June 1995, which concerned three cases, Lord Browne-Wilkinson held, among other things, that public policy considerations were such that local authorities should not be held liable in negligence in respect of the exercise of their statutory duties safeguarding the welfare of children.

Complaints

The applicants alleged that K.M. had been unjustifiably taken into care and separated from her mother T.P. and that they had had no access to court or effective remedy in respect of that interference with their rights. They relied on Articles 8, 6 para. 1 and 13 of the Convention.

Decision of the Court

Article 8

The Court concluded that the question whether to disclose the video of the interview and its transcript should have been determined promptly to allow T.P. an effective opportunity to deal with the allegations that her daughter K.M. could not be returned safely to her care. Noting that the local authority's failure to submit the issue to the court for determination meant T.P. was not adequately involved in the decision-making process concerning the care of her daughter, K.M., the Court found a failure to respect the applicants' family life and a breach of Article 8.

Article 6

Concerning the applicability of Article 6, the Court was satisfied that at the outset of the proceedings there was a serious and genuine dispute about the existence of the right asserted by the applicants under the domestic law of negligence. In such circumstances, the Court found that the applicants had, on at least arguable grounds, a claim under domestic law and that Article 6 was therefore applicable to the proceedings brought by these applicants alleging negligence by the local authority.

Concerning compliance with Article 6, the Court observed, firstly, that the applicants were not prevented in any practical manner from bringing their claims before the domestic courts. Indeed, the case was litigated with vigour up to the House of Lords, the applicants being provided with legal aid for that purpose. Nor was it the case that any procedural rules or limitation periods were invoked. The domestic courts were concerned with the application brought by the defendants to have the case struck out as disclosing no reasonable cause of action. This involved the pre-trial determination of whether, assuming the facts of the applicants' case as pleaded were true, there was a sustainable claim in law.

Nor was the Court persuaded that the applicants' claims were rejected due to the application of an exclusionary rule. The decision of the House of Lords found, applying ordinary principles of negligence law, that the local authority could not be held vicariously liable for any alleged negligence of the doctor and social worker. Lord Browne-Wilkinson noted that the applicants had not argued any direct duty of care was owed to them by the local authority. It could not therefore be maintained that the applicants' claims were rejected on the basis that it was not fair, just and reasonable to impose a duty of care on the local authority in the exercise of its child care functions. The applicants had submitted that this ground was included in their original statement of claim and in the written pleadings on appeal. Since however this ground was not in fact relied upon in the proceedings conducted before the House of Lords, the Court cannot speculate as to the basis on which the claims might have been rejected if they had been so formulated and argued.

The decision of the House of Lords did end the case, without the factual matters being determined on the evidence. However, if as a matter of law, there was no basis for the claim, the hearing of evidence would have been an expensive and time-consuming process which would not have provided the applicants with any remedy at its conclusion. There was no reason to consider the striking out procedure which rules on the existence of sustainable causes of action as *per se* offending the principle of access to court.

The applicants might not claim therefore that they were deprived of any right to a determination on the merits of their negligence claims. Their claims were properly and fairly examined in light of the applicable domestic legal principles concerning the tort of negligence. Once the House of Lords had ruled on the arguable legal issues that brought into play the applicability of Article 6 para. 1, the applicants could no longer claim any entitlement under Article 6 para. 1 to obtain any hearing concerning the facts. There was

no denial of access to court and, accordingly, no violation of Article 6.

Article 13

The Court considered that the applicants should have had available to them a means of claiming that the local authority's handling of the procedures was responsible for the damage which they suffered and obtaining compensation for that damage. It did not agree with the Government that pecuniary compensation would not provide redress. If, as was alleged, psychiatric damage occurred, there might have been elements of medical costs as well as significant pain and suffering to be addressed. The possibility of applying to the ombudsman and to the Secretary of State did not provide the applicants with any enforceable right to compensation.

The Court found that the applicants did not have available to them an appropriate means for obtaining a determination of their allegations that the local authority breached their right to respect for family life and the possibility of obtaining an enforceable award of compensation for the damage suffered thereby. Consequently, they were not afforded an effective remedy and there has, accordingly, been a violation of Article 13.

Lady Justice Arden expressed a concurring opinion which is annexed to the judgment.

4. Composition of the Court at 30 June 2001 by order of precedence

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

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/.

States' obligation to co-operate with the European Court of Human Rights

Resolution ResDH (2001) 66, 26 June 2001

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11 (hereinafter referred to as "the Convention"),

Deploring that violations have been established in recent judgments of the European Court of Human Rights in respect of the obligation incumbent on the authorities of the Contracting States to furnish all necessary facilities to the Convention organs in their investigation with a view to establishing the facts (violations of former Article 28, paragraph 1.a and present Article 38, paragraph 1.a of the Convention);

Emphasising that the principle of co-operation with the Court embodied in the Convention is of fundamental importance for the proper and effective functioning of the Convention system;

Calls upon the governments of the Contracting States to ensure that all relevant authorities comply strictly with the aforementioned obligation.

Aka v. Turkey

Appl. No. 19639/92, Court judgment 23 September 1998

Resolution ResDH (2001) 70, 26 June 2001

The applicant had complained of the breach of his right to the peaceful enjoyment of his possessions due to the administration's delay in paying additional compensation awarded by a domestic court for expropriation of his land. In its judgment the Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention and that the government of the respondent state was to pay the applicant's heirs certain sums in respect of pecuniary and non-pecuniary damage.

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

Appendix to Resolution ResDH (2001) 70
Information provided by the Government of Turkey during the examination of the Aka case by the Committee of Ministers

The Government notes that the violations of Article 1 of Protocol No. 1 in the Akkuş and Aka cases and in a number

of subsequent similar cases were due to the provisions of Law No. 3095 of 4 December 1984 which fixed the statutory rate of default interest on state debts at 30%, whereas the average rate of inflation at the time was 70% per annum.
Following the Court's judgment in the Akkuş case (judgment of 9 July 1997), the Turkish Council of Ministers, by a decision adopted on 9 October 1997, increased the statutory rate of default interest on state debts from 30% to 50%.
The Government subsequently concluded, however, that the increase in the statutory rate to 50% did not prevent further violations of Article 1 of Protocol No. 1 since the inflation rate was still close to, or even in excess of, 70%. The Turkish Council of Ministers therefore laid before parliament a draft amendment to the law on default interest: this amendment, without specifying a fixed rate, was intended to bring the statutory rate of default interest into line with the fluctuating rate of inflation in Turkey.
On 15 December 1999, the Turkish Grand National Assembly adopted a law (No. 4489) which, upon coming into force on 1 January 2000, brought the statutory rate of default interest into line with the annual rediscount rate applied by the Turkish Central Bank to short-term debts. The latter rate is fixed and permanently reviewed in relation notably to the country's inflation rate. The Government considers that this new method for determining the statutory rate of default interest will also encourage the relevant authorities to speed up payment procedures.
In a more general way, the Government would like to point out a positive evolution of the internal jurisprudence which refers henceforth directly to the requirements of Article 1 of Protocol No. 1, as they are set out in the European Court's judgments (see, for example, decisions of Constitutional Court of 29 December 1999, published on 29 June 2000). The Government considers that these recent examples are indicative of the will of the highest national judicial authorities to ensure effective respect for the European Court's judgments in the interpretation of Turkish law. According to the Government, this attitude of the judiciary is in line with Turkey's undertakings under Article 46, paragraph 1 (former Article 53) of the Convention and it will play an important role in the effective prevention of the violations. The Government is furthermore convinced that the evolution of domestic jurisprudence, which tends to grant a direct effect to the European Court's judgments, should continue and extend to all spheres protected by the Convention.
In the opinion of the Government, the above-mentioned measures prevent new violations similar to those found by the European Court in Akkuş and Aka cases as well as in many similar cases. Turkey has therefore fulfilled its obligations under Article 46 para. 1 (former Article 53) of the Convention in these cases.

Violation of Article 1 of Protocol No. 1

Akkuş v. Turkey

Appl. No. 19263/92, Court judgment 9 July 1997

Resolution ResDH (2001) 71, 26 June 2001

The applicant had complained of the breach of her right to the peaceful enjoyment of her possessions due to the administration's delay in paying additional compensation for expropriation of her land. In its judgment the Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention and that the government of the respondent state was to pay the applicant certain sums in respect of pecuniary and non-pecuniary damage and for costs and expenses.
In this resolution the Committee of Ministers noted that the Turkish Government had paid the applicant the sums provided for in the judgment and had taken the following measures:

Appendix to Resolution ResDH (2001) 71
Information provided by the Government of Turkey during the examination of the Akkuş case by the Committee of Ministers
[See information supplied under *Aka v. Turkey* above.]

Violation of Article 1 of Protocol No. 1

Aspichi Dehwari v. the Netherlands

Appl. No. 37014/97, Court judgment 27 April 2000

Resolution ResDH (2001) 78, 26 June 2001

Friendly settlement – struck out of the list

Bacelar de Sousa Machado II v. Portugal

Appl. No. 37311/97, Court judgment 22 June 2000

Resolution ResDH (2001) 62, 17 April 2001

Friendly settlement – struck out of the list

Burgorgue v. France

Appl. No. 43624/98, Court judgment 5 December 2000

Resolution ResDH (2001) 64, 17 April 2001

Friendly settlement – struck out of the list

Entleitner v. Austria

Appl. No. 29544/95, Court judgment 1 August 2000

Resolution ResDH (2001) 60, 17 April 2001

Violation of Article 6 (1)

Guidetti v. Portugal

Appl. No. 19137/91, admissibility decision of the Commission 29 September 1999, Interim Resolution DH (2000) 22

Final Resolution ResDH (2001) 75, 26 June 2001

The applicant complained that he had not been brought promptly, after his arrest, before a judge or other officer authorised by law to exercise judicial power, and that there had been a violation of Article 5 (3) of the Convention as regards the excessive length of his detention on remand. The Committee of Ministers, agreeing with the Commission's proposals, held by a decision adopted on 14 February 2000 that no sum of money was to be paid to the applicant as just satisfaction, since he had not submitted any claim in this respect.
In this resolution the Committee of Ministers took note of information provided by the government of the respondent state, drawing 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 in the future by informing the authorities concerned of the requirements of the Convention: copies of the Commission's report had accordingly been sent out to them. In addition, the Commission's report had been widely disseminated, notably in academic circles.

Violation of Article 5 (3)

Howarth v. the United Kingdom

Appl. No. 38081/97, Court judgment 21 September 2000

Resolution ResDH (2001) 76, 26 June 2001

Violations of Article 3 and Article 6 (1)

Jordan, Stephen v. the United Kingdom

Appl. No. 30280/96, Court judgment 14 March 2000

Resolution ResDH (2001) 73, 26 June 2001

The applicant complained of the lack of independence of a court martial and the absence of an enforceable right to compensation in this respect. In its judgment the Court held that there had been a violation of Article 5 (3) and (5) and that the government of the respondent state was to pay the applicant a certain sum in respect of costs and expenses.

In this resolution the Committee of Ministers noted that the Government of the United Kingdom had paid the applicant the sum provided for in the judgment and had taken certain measures to prevent the occurrence of similar violations: through the entry into force on 1 April 1997 of the Armed Forces Act 1996 which amended the relevant provisions of the Army Act 1955 and the Air Force Act 1955; and through the entry into force on 1 April 1997 of the Investigation and Summary Dealing (Army) Regulations of 1997, of which Rules 20 to 24 provide remedies to the shortcoming found in the military system of detention before trial. In addition, the government of the respondent state had indicated that the Court's judgment had been sent out to the authorities directly concerned.

Violation of Article 5 (3) and (5)

Loizidou v. Turkey

Appl. No. 15318/89, Court judgments 18 December 1996 and 28 July 1998, Interim Resolutions DH (99) 680 and DH (2000) 105

Interim Resolution ResDH (2001) 80
concerning the judgment of the European Court of Human Rights of 28 July 1998 in the case of Loizidou against Turkey

The Committee of Ministers, acting under the terms of former Article 54 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention" below),

Having regard to the judgment of the European Court of Human Rights ("the Court" below) of 28 July 1998 which ordered Turkey to pay to the applicant before 28 October 1998 specific sums for damages and for costs and expenses;

Recalling its Interim Resolution DH (2000) 105, in which it declared that the refusal of Turkey to execute the judgment of the Court demonstrated a manifest disregard for Turkey's international obligations, both as a High Contracting Party to the Convention and as a member State of the Council of Europe, and strongly insisted that, in view of the gravity of the matter, Turkey comply fully and without any further delay with this judgment;

Very deeply deploring the fact that, to date, Turkey has still not complied with its obligations under this judgment;

Stressing that every member State of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms;

Stressing that acceptance of the Convention, including the compulsory jurisdiction of the Court and the binding nature of its judgments, has become a requirement for membership of the Organisation;

Stressing that the Convention is a system for the collective enforcement of the rights protected therein,

Declares the Committee's resolve to ensure, with all means available to the Organisation, Turkey's compliance with its obligations under this judgment,

Calls upon the authorities of the member States to take such action as they deem appropriate to this end.

Louka v. Cyprus

Appl. No. 42946/98, Court judgment 2 August 2000

Resolution ResDH (2001) 72, 26 June 2001

The case concerned the excessive length of certain civil proceedings. In its judgment the Court held that there had been a violation of Article 6 (1) of the Convention and that the government of the respondent state was to pay the applicant certain sums in respect of non-pecuniary damage and for costs and expenses.

In this resolution the Committee of Ministers noted that the Cypriot Government had paid the applicant the sums provided for in the judgment, and that measures had already been taken to avoid new violations of the same kind as the one found in this case (see Resolution DH (99) 465 in the *Mavronichis* case, *Information bulletin* No. 47, p. 22).

Violation of Article 6 (1)

Matthews v. the United Kingdom

Appl. No. 24833/94, Court judgment 18 February 1999

Interim Resolution ResDH (2001) 79, 26 June 2001
concerning the judgment of the European Court of Human Rights of 18 February 1999 in the case of Matthews against the United Kingdom

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (hereinafter referred to as "the Convention"),

Having regard to the judgment of the European Court of Human Rights in the case of Matthews against the United Kingdom, delivered on 18 February 1999, in which the Court, notably, held that there had been a breach of Article 3 of Protocol No. 1, due to the inability of the applicant to vote in elections to the European Parliament in Gibraltar and that the respondent state was to pay the applicant, within three months, certain sums for just satisfaction;

Having regard to the Rules adopted for the application of Article 46, paragraph 2, of the Convention;

Having invited the Government of the United Kingdom to inform it of the measures which had been taken following the judgment of 18 February 1999, with regard to the United Kingdom's obligation under Article 46, paragraph 1, of the Convention to abide by it;

Having been informed that the Government of the United Kingdom paid, within the time-limit set, the just satisfaction awarded by the Court, and that the judgment has received extensive newspaper coverage and has also been published in the *Human Rights Report*, *Human Rights Digest* and other legal journals;

Recalling that the undertaking of the contracting states to abide by the Court's judgments (Article 46, paragraph 1, of the Convention) implies, *inter alia*, an obligation to take general measures in order to prevent effectively new violations of the Convention similar to those found in the Court's judgments;

Aware of the complexity of the issues raised by this judgment;

Noting the United Kingdom's unequivocal acceptance of its obligation and the fact that it is actively seeking enfranchisement of Gibraltar before the 2004 elections to the European Parliament;

Noting, however, that more than two years after the Court's judgment, the legal provisions which led to the violation of Article 3 of the Protocol No. 1, are still in force and that no adequate measures have yet been presented with a view to preventing new similar violations in the future;

Urges the United Kingdom to take the necessary measures to secure the rights under Article 3 of Protocol No. 1 in respect of elections to the European Parliament in Gibraltar,

Decides, accordingly, if need be, to resume consideration of the present case at each of its forthcoming meetings in order to ensure the proper execution of the Court's judgment.

Violation of Article 3 of Protocol No. 1

Nankov v. Bulgaria

Appl. No. 28882/95, admissibility decision of the Commission 10 September 1997, Interim Resolution DH (98) 381

Resolution ResDH (2001) 59, 17 April 2001

The applicant complained of the excessive length of his detention on remand and of the excessive length of certain criminal proceedings brought against him. In its interim resolution the Committee of Ministers held that there had been violations of Article 5 (3) and 6 (1). On 14 February 2000 the Committee of Ministers said that the respondent state was to pay the applicant a certain sum as just satisfaction, and invited the Government of Bulgaria to inform it of the measures taken to prevent the occurrence of similar violations.

In this resolution the Committee of Minsiters noted that the Government of Bulgaria had paid the applicant the sum awarded, and had taken the following measures:

Appendix to Final Resolution ResDH (2001) 59
Information provided by the Government of Bulgaria during the examination of the Nankov case by the Committee of Ministers

Individual measures

As regards the applicant's detention on remand, he was released on bail immediately after the European Commission of Human Rights had adopted its report.

As regards the length of criminal proceedings, following the finding of violation of Article 6, the competent court (Teteven regional court) gave priority to the Nankov case and took a number of measures to accelerate the proceedings. Furthermore, the Ministry of Justice and European Legal Integration has brought the proceedings under its own administrative supervision, to prevent further delays imputable to the State. However, the hearings before the court have been repeatedly postponed for certain reasons which are not dependent on either the court or the executive (for example, in 2000-2001 the applicant has been suffering from a serious infectious disease requiring him to be placed in placed in quarantine and was thus unable to attend hearings). Consequently, the proceedings have not yet been concluded.

The Government has been informed that the judicial authorities firmly resolve to conclude these proceedings rapidly and will continue to adopt all necessary measures to that effect in full respect of the applicant's health and his procedural rights provided for in the domestic law and the Convention.

General measures

The Government considers that the finding that the excessive length of the criminal proceedings in this case violated Article 6, paragraph 1, does not in itself indicate that there are structural shortcomings in Bulgaria's administration of justice.

However, the violation of Article 5, paragraph 3, was largely a consequence of the law on detention on remand. In this connection, the Government points out that the law in force at the time still provided for compulsory detention on remand, especially in the case of recidivists (former Article 152, paragraph 3, of the Code of Criminal Procedure). This obligation has already been revoked by an amendment published in the Official Gazette on 8 August 1997 (No. 64/1997).

In addition, the reform of criminal procedure which Parliament adopted on 22 July 1999, and which came into force when published in the Official Gazette on 6 August 1999 (No. 70/1999), made further changes in Article 152, and especially the section which waived compulsory detention on remand only in cases where the accused could show that there was no risk of his/her absconding or committing a further offence (former paragraph 2 of Article 152).

The new Article 152 provides that detention on remand shall be ordered in cases concerning criminal offences punished by deprivation of liberty, where it emerges from the case-file that there is a real danger of the accused absconding or re-offending (new Article 152, paragraph 1). When this danger no longer exists, detention on remand shall be replaced by a less severe measure (new Article 152, paragraph 3). In addition, the maximum period of detention on remand before the case is referred to a court is two months, except where the accused is charged with a serious wilful crime or a crime carrying a prison sentence of at least 15 years. In these two cases, the maximum periods of detention on remand before the case is referred to a court are one and two years respectively. At the end of these periods, the accused is released by order of the prosecutor (new Article 152, paragraph 5).

The Bulgarian Government considers that the new text of Article 152 therefore puts sufficient emphasis on the exceptional nature of detention on remand, obliges prosecutors and investigators to prove to the judge that there are valid and objective reasons (e.g. a danger of the accused abscond-

ing or re-offending) for ordering and prolonging detention on remand, and also puts sufficient emphasis on the need for special diligence in conducting the investigation by imposing strict time-limits on detention on remand during the pre-trial investigation stage. (see Resolution DH (2000) 109 in the Assenov case).

Lastly, the Government states that the wide publicity it has given to the Assenov judgment, which raises inter alia the same problems concerning the length of detention on remand, has done much to raise awareness among prosecutors, investigators and judges, who will no longer fail to take account of the requirements of Article 5 in performing their duties.

In view of the foregoing, the Government considers that these measures will prevent further, similar violations of Article 5, paragraph 3, and that Bulgaria has therefore fulfilled its obligations under former Article 32 of the Convention in this case.

Violations of Article 5 (3) and 6 (1)

Papadopoulos v. Cyprus

Appl. No. 39972/98, Court judgment 21 March 2000

Resolution ResDH (2001) 61, 17 April 2001

Violation of Article 6 (1)

Paskhalidis and Others v. Greece

Appl. No. 20416 and ninety-two others, Court judgment 19 March 1997

Resolution ResDH (2001) 74, 26 June 2001

The case concerned the excessive length of certain proceedings concerning civil rights and obligations (pension rights) before the administrative courts. In its judgment the Court struck out of the list the case of one applicant; held that in the case of the other applicants there had been a violation of Article 6 (1); and said that the Greek Government should pay each applicant a certain sum in respect of non-pecuniary damage, and all the applicants jointly a certain sum in respect of costs and expenses.

In this resolution the Committee of Ministers noted that the Greek Government had paid the applicants the sums provided for in the judgment and took account of the following information provided by the government: 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: copies of the judgment had accordingly been sent out to them; in addition, the Court's judgment had been published in Greek, French and English in the *European Convention on Human Rights review*, edition 1999.

Violation of Article 6 (1)

Pauwels v. Belgium

Appl. No. 10208/82, Court judgment 26 May 1988, Interim Resolution DH (96) 676

Resolution ResDH (2001) 67, 26 June 2001

The case concerned a complaint regarding the combined investigation and prosecution functions of military judges. In its judgment the Court held that there had been a violation of Article 5 (3). The Committee of Ministers, in its interim resolution, indicated that it had provisionally exercised its functions under former Article 54 of the Convention in the light of the information provided at that date by the government of the respondent state concerning the payment of just satisfaction and general measures taken.

In this resolution the Committee of Ministers took note of the following information supplied by the Government of Belgium:

Appendix to Resolution ResDH (2001) 67
Information provided by the Government of Belgium during the examination of the Pauwels case by the Committee of Ministers

The broad legislative reform regarding the armed forces, necessarily including a provision ensuring the conformity of Belgian legislation with the requirements of impartiality in military criminal proceedings, resulting from this case, is still on the Agenda, but has not yet been completed. The Government of Belgium, while undertaking to communicate to the Committee of Ministers a copy of the law immediately after its adoption, considers, for the reasons specified below, that it is not necessary to wait for the adoption of this Bill to close the Pauwels case.

The Government of Belgium recalls first that measures have already been adopted in order to prevent the repetition of the violation found in the current case, by way of internal circulars dated 29 March 1983, 11 March 1985 and 28 October 1991. These circulars prevent a military magistrate who has exercised investigative functions from exercising prosecuting functions in the same case.

Since the last circular of 28 October 1991, neither the Belgian courts nor the European Court of Human Rights have had to examine cases regarding the combination of investigation and prosecution functions by a military judge in the same case.

Furthermore, the Government of Belgium is of the opinion that, given the direct effect given to the Convention and the case-law of the European Court in domestic law (see for example the recent judgment of the *Cour de cassation* of 16 March 1999 following the judgment of the European Court in the case of Van Geyseghem of 21 January 1999), should a case regarding the combination of investigation and prosecution functions be referred to the Belgian courts, the courts would not fail to apply the case-law of the European Court in the Pauwels case.

The Government of Belgium considers that there is no longer a risk of repetition of the violation found in the present case and that, therefore, it has fulfilled its obligations under the former Article 53 of Convention.

Violation of Article 5 (3)

Plumey v. Switzerland

Appl. No. 23857/94, admissibility decision of the Commission 9 September 1996, Interim Resolution DH (99) 517

Final Resolution ResDH (2001) 69, 26 June 2001

The applicant had complained that the Public Prosecutor who ordered his detention on remand did not have the quality of "a judge or other officer authorised by law to exercise judicial power". The Committee of Ministers, agreeing with the Commission's proposals, held by a decision adopted on 29 May 2000 that that the government of the respondent state was to pay the applicant a certain sum as just satisfaction.

In this resolution the Committee of Ministers took note of the following information provided by the respondent state:

Appendix to Resolution ResDH (2001) 69
Information provided by the Government of Switzerland during the examination of the Plumey case by the Committee of Ministers

The revision of the Code of Criminal Procedure of the Canton of Basel-Stadt, which entered into force on 1 January 1993, instituted the post of "judge of detention", a magistrate who exercises the functions of "judge" within the meaning of Article 5, paragraph 3, of the Convention and provides that prosecutors no longer act in the capacity of "magistrate" within the meaning of Article 5, paragraph 3 of the Convention.

A judgment of the Federal Court of 23 September 1998, published in the *Recueil officiel* (ATF 124 I 274), modified the previous case-law of this court, in that the establishment of a new bill of indictment as well as the designation of a new prosecutor cannot resolve the incompatibility with Article 5, paragraph 3, of the Convention of a detention on remand ordered by a member of the Court which subsequently draws up the bill of indictment.

The Government considers that these measures will prevent in the future the risk of new violations similar to that found in this case and that Switzerland has thus fulfilled its obligations under former Article 32 in this case.

Violation of Article 5 (3)

Sahli v. Belgium

Appl. No. 38707/97, Court judgment 9 January 2001

Resolution ResDH (2001) 77, 26 June 2001

Friendly settlement – struck out of the list

Savić v. Slovakia

Appl. No. 28409/95, admissibility decision of the Commission 3 December 1997, Interim Resolution DH (99) 38

Resolution ResDH (2001) 68, 26 June 2001

The applicant had complained of the excessive length of his detention on remand, of the procedure applied in order to examine his complaint about the dismissal of his request for release and of the excessive length of the proceedings. The Committee of Ministers, agreeing with the Commission's proposals, held by a decision adopted on 15 July 1999 that the government of the respondent state was to pay the applicant a certain sum as just satisfaction.

In this resolution the Committee of Ministers noted that the government of the respondent state had paid the applicant the sum provided for, and took note of the following information provided by the government:

Appendix to Final Resolution ResDH (2001) 68
Information provided by the Government of the Slovak Republic during the examination of the Savić case by the Committee of Ministers

The Slovak Government considers that, in view of the direct effect given to the European Convention on Human Rights and to the case-law of the European Court of Human Rights in Slovak law, domestic courts will themselves be able to prevent new violations similar to those found in the present case.

To this end, a circular letter was sent by the Minister of Justice to the presidents of all regional and district courts. In this letter, the Minister invites judges to draw the necessary conclusions from the Savić case and to take the necessary measures to prevent new, similar violations. The Attorney General of the Slovak Republic has also been requested to transmit appropriate instructions to regional prosecutors. The Savić case has also been brought to the attention of the Training Directorate of the Ministry of Justice, which included it in the training programme for new judges and court staff.

Furthermore, the Commission's report was translated into Slovak and published in *Justičnà revue* (No. 4/1999), a journal which is widely distributed in legal circles, notably to advocates.

Lastly, the Government specifies that the reform of the Code of Criminal Procedure, currently under way, notably aims at strengthening the adversarial principle and the principle of equality of arms.

Violation of Article 5 (3) and (4)

Scozzari and Giunta v. Italy

Appl. Nos. 39221/98 and 41963/98, Court judgment 13 July 2000

Interim Resolution ResDH (2001) 65, 29 May 2001

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (hereinafter referred to as "the Convention") and having regard to the Rules concerning the application of this article,

Having regard to the judgment of the European Court of Human Rights in the Scozzari and Giunta case delivered and transmitted to the Committee of Ministers on 13 July 2000, in which the Court notably found two violations of Article 8 of the Convention on account, on the one hand, of the delays in organising contact visits and the limited number of such visits between the first applicant and her children, after they had been taken into public care and, on the other hand, of the placement, uninterrupted to date, of the children in a community (*Il Forteto*) among whose managers are persons convicted for ill-treatment and sexual abuse of handicapped persons placed in the community;

Having regard to the obligation of every State, under Article 46, paragraph 1, of the Convention, to abide by the judgments of the Court, in particular – as the Court also underlined in the said judgment – by putting an end to the violations found and to redress as far as possible their effects;

Having regularly examined the case since September 2000 and having invited the Government of Italy to inform it of the measures taken in consequence of the judgment, while stressing and underlining the urgency attaching to the matter;

Noting that the question of alternative placements has not been addressed by the Italian authorities and that, consequently, Ms Scozzari's children continue to be placed in the *Forteto* community;

Noting with the greatest interest that, following Ms Scozzari's taking up residence in Belgium, the Belgian Government has approached the Italian authorities in order to examine the possibilities of organising, by judicial means, the placement of the children in Belgium, near the mother's place of residence, under the guardianship of the competent youth court;

Finding that such a proposal could provide the basis for a solution respecting the Court's judgment,

Encourages, considering the urgency of the situation, the Belgian and Italian authorities to implement without delay the proposal so as to put an end to the violations found,

Decides to resume consideration of this case, if need be, at each of its meetings.

Violation of Article 8

Varey, John and Mary v. the United Kingdom

Appl. No. 26662/95, Court judgment 21 December 2000

Resolution ResDH (2001) 63, 17 April 2000

Friendly settlement

B. European Social Charter

1. State of signatures and ratifications of the Charter and its protocols at 30 June 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	*a*	—	*a*	—	*a*	—	*a*	—	21/09/98	—
Andorra	*a*	—	*a*	—	*a*	—	*a*	—	04/11/00	—
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	*b*	*b*	*c*	*c*	*b*	*b*	*d*	*d*	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	*c*	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	—	—	04/11/00	—
Denmark	18/10/61	03/03/65	27/08/96	27/08/96	—	**	09/11/95	—	03/05/96	—
Estonia	*b*	*b*	*c*	*c*	*b*	*b*	*b*	—	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	*b*	21/10/91	24/05/95	09/11/95	07/05/99	03/05/96	07/05/99
Georgia	*a*	—	*a*	—	*a*	—	*a*	—	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	*c*	*c*	14/05/97	14/05/97	04/11/00	04/11/00	04/11/00	04/11/00
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	*b*	*b*	*c*	*c*	*b*	*b*	*b*	—	08/09/97	**29/06/01**
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	*a*	—	*a*	—	*a*	—	*a*	—	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	**07/05/01**	**07/05/01**
Poland	26/11/91	25/06/97	—	—	18/04/97	25/06/97	—	—	—	—
Portugal	01/06/82	30/09/91	*a*	—	24/02/92	08/03/93	09/11/95	20/03/98	03/05/96	—
Romania	04/10/94	*b*	*c*	*c*	*b*	*b*	*b*	—	14/05/97	07/05/99
Russia	*a*	—	*a*	—	*a*	—	*a*	—	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	*b*	11/10/97	*c*	11/10/97	*b*	11/10/97	*d*	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	—	*a*	—	*a*	—	*a*	—	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)

Lithuania

Declaration contained in the instrument of ratification deposited on 29 June 2001 – Or. Engl.

The Republic of Lithuania declares that it considers itself bound by the provisions of the following Articles of the Charter: Articles 1-11 of Part II, sub-paragraphs 1, 3 and 4 of Article 12, sub-paragraphs 1-3 of Article 13, Articles 14-17, sub-paragraphs 1 and 4 of Article 18, sub-paragraphs 1, 3, 5, 7, 9-11 of Article 19, Articles 20-22, Articles 24-29 and sub-paragraphs 1 and 2 of Article 31.

Norway

Declaration contained in the instrument of ratification deposited on 7 May 2001 – Or. Engl.

The Kingdom of Norway declares that it considers itself bound by Articles 1, 4-6, 9-17, 20-25, 30 and 31, as well as, moreover, by the provisions of Article 2, paragraphs 1-6, Article 3, paragraphs 2-3, Article 7, paragraphs 1-3, 5-8 and 10, Article 8, paragraphs 1 and 3, Article 19, paragraphs 1-7 and 9-12 and Article 27, paragraphs 1c and 2, of the Charter.

Declaration contained in the instrument of ratification deposited on 7 May 2000 – Or. Engl.

In conformity with Part VI, Article L, of the revised European Social Charter, the Norwegian Government declares that the metropolitan territory of Norway to which the provisions of the revised European Social Charter shall apply, shall be the territory of the Kingdom of Norway with the exception of Svalbard (Spitzbergen) and Jan Mayen. The revised European Social Charter shall not apply to the Norwegian dependencies.

3. Activities of the supervisory bodies of the Charter

European Committee of Social Rights

The ECSR is a committee of independent experts that assesses conformity of national situations with the European Social Charter and the revised European Social Charter.

It is made up of the following members: Mr S. Evju (Norwegian) (President), Mr N. Aliprantis (Greek) (Vice-President), Mr M. Mikkola (Finnish) (General Rapporteur), Mr R. Birk (German), Mr A. Bruto da Costa (Portuguese), Mrs M. Jamoulle (Belgian), Mr T. Akillioglu (Turkish), Mr J.-M. Belorgey (French), Mrs C. Kollonay-Lehoczky (Hungarian).

Following the Committee of Ministers' decision of 2 May 2001 to increase the number of ECSR members from nine to twelve, elections are due to take place and the three new seats will be filled as from 1 August 2001.

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

Three sessions were held in Strasbourg during the period under review: the 176th (12-16 March 2001), the 177th (23-27 April 2001) and the 178th session (11-15 June 2001).

Examination of national reports

Cycle XV-2 – The ECSR published its conclusions concerning Cyprus, Germany, Ireland, Luxembourg, Malta, Slovakia and Turkey in an Addendum to Conclusions XV-2.

The text of these conclusions can be found on the Social Charter Internet site: http://www.esc.coe.int.

The ECSR also adopted the 8th report on certain provisions of the Charter which have not been accepted concerning Article 7 paras. 1, 3 and 4 in respect of Austria, Denmark, Germany, Iceland, Norway, Poland, Turkey and the United Kingdom.

Collective complaints

During their 97th meeting held from 14 to 18 May 2001 the Governmental Committee entered five new NGOs on to the list of NGOs entitled to submit collective complaints, bringing the present total to 52.

Hearings and Decisions

Prior to adoption of decisions, due at a later date in the year, the ECSR organised a hearing in respect of complaint No. 9/2000, *Confédération française de l'Encadrement* – CGC v. France, and held discussions concerning complaint No. 10/2000, Tehy ry and STTK ry v. Finland.

The decision concerning complaint No. 7/2000, International Federation of Human Rights Leagues v. Greece, was published after adoption by the Committee of Ministers of Resolution No. ResChS (2001) 6 on 5 April 2001.

The text of the ECSR's decisions and the Committee of Ministers' Resolution appear on the Committee of Ministers' Internet site: http://www.cm.coe.int.

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

1. State of signatures and ratifications of the Convention and its protocols at 30 June 2001

Member states	Convention		Protocol No. 1		Protocol No. 2	
	Signed	*Ratified*	*Signed*	*Ratified*	*Signed*	*Ratified*
Albania	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96
Andorra	10/09/96	06/01/97	04/11/99	13/07/00	04/11/99	13/07/00
Armenia	**11/05/01**					
Austria	26/11/87	06/01/89	04/11/93	30/04/96	04/11/93	30/04/96
Azerbaïdjan						
Belgium	26/11/87	23/07/91	04/11/93	12/09/96	04/11/93	12/09/96
Bulgaria	30/09/93	03/05/94	04/03/97	27/10/97	04/03/97	27/10/97
Croatia	06/11/96	11/10/97	10/05/00	04/11/00	10/05/00	04/11/00
Cyprus	26/11/87	03/04/89	02/02/94	10/09/97	02/02/94	10/09/97
Czech Republic*	23/12/92	07/09/95	28/04/95	07/09/95	28/04/95	07/09/95
Denmark	26/11/87	02/05/89	04/11/93	26/04/94	04/11/93	26/04/94
Estonia	28/06/96	06/11/96	28/06/96	06/11/96	28/06/96	06/11/96
Finland	16/11/89	20/12/90	04/11/93	04/11/93	04/11/93	04/11/93
France	26/11/87	09/01/89	04/11/93	19/08/98	04/11/93	14/08/96
Georgia	16/02/00	20/06/00	16/02/00	20/06/00	16/02/00	20/06/00
Germany	26/11/87	21/02/90	04/11/93	13/12/96	04/11/93	13/12/96
Greece	26/11/87	02/08/91	04/11/93	29/06/94	04/11/93	29/06/94
Hungary	09/02/93	04/11/93	04/11/93	04/11/93	04/11/93	04/11/93
Iceland	26/11/87	19/06/90	08/09/94	29/06/95	08/09/94	29/06/95
Ireland	14/03/88	14/03/88	10/04/96	10/04/96	10/04/96	10/04/96
Italy	26/11/87	29/12/88	30/10/96	08/03/99	30/10/96	08/03/99
Latvia	11/09/97	10/02/98	11/09/97	10/02/98	11/09/97	10/02/98
Liechtenstein	26/11/87	12/09/91	04/11/93	05/05/95	04/11/93	05/05/95
Lithuania	14/09/95	26/11/98	14/09/95	26/11/98	14/09/95	26/11/98
Luxembourg	26/11/87	06/09/88	04/11/93	20/07/95	04/11/93	20/07/95
Malta	26/11/87	07/03/88	04/11/93	04/11/93	04/11/93	04/11/93
Moldova	02/05/96	02/10/97	02/10/97	02/10/97	02/10/97	02/10/97
Netherlands	26/11/87	12/10/88	05/05/94	23/02/95	05/05/94	23/02/95
Norway	26/11/87	21/04/89	04/11/93	04/11/93	04/11/93	04/11/93
Poland	11/07/94	10/10/94	11/01/95	24/03/95	11/01/95	24/03/95
Portugal	26/11/87	29/03/90	03/06/94	20/03/98	03/06/94	03/02/00
Romania	04/11/93	04/10/94	04/11/93	04/10/94	04/11/93	04/10/94
Russia	28/02/96	05/05/98	28/02/96	05/05/98	28/02/96	05/05/98
San Marino	16/11/89	31/01/90	04/11/93	05/12/96	04/11/93	05/12/96
Slovakia*	23/12/92	11/05/94	07/03/94	11/05/94	07/03/94	11/05/94
Slovenia	04/11/93	02/02/94	31/03/94	16/02/95	31/03/94	16/02/95
Spain	26/11/87	02/05/89	21/02/95	08/06/95	21/02/95	08/06/95
Sweden	26/11/87	21/06/88	07/03/94	07/03/94	07/03/94	07/03/94
Switzerland	26/11/87	07/10/88	09/03/94	09/03/94	09/03/94	09/03/94
"The former Yugoslav Republic of Macedonia"	14/06/96	06/06/97	14/06/96	06/06/97	14/06/96	06/06/97
Turkey	11/01/88	26/02/88	10/05/95	17/09/97	10/05/95	17/09/97
Ukraine	02/05/96	05/05/97	26/01/98	**	26/01/98	**
United Kingdom	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 March and 30 June 2001 the CPT carried out visits to places and published reports as detailed below.

Scope of intervention of the CPT

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.

Situation at 30 June 2001

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, the Russian Federation, Slovenia, Switzerland, Turkey and the United Kingdom.

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

Chechen Republic of the Russian Federation
(19-23 March 2001)

A delegation of the CPT has recently carried out a 5-day visit to the Chechen Republic of the Russian Federation.

The CPT's delegation examined the current situation as regards the treatment of persons deprived of their liberty in the Chechen Republic; it also followed up various issues raised in the report on its two visits to the North Caucasus in February/March and April 2000.

The delegation held discussions with Lieutenant General V.P. Baranov, Commander in Chief of the Allied Group of Armed Forces, Mr V.G. Chernov, Acting Prosecutor of the Chechen Republic, and Mr A.F. Bibikov, Military Prosecutor of the Allied Group of Armed Forces. It also had talks with members of the local administrations in Argun, Kurčaloj, Šatoj and Urus-Martan. Further, the delegation paid a visit to the Znamenskoe Office of the Special Representative of the President of the Russian Federation for ensuring human rights and civil rights and freedoms in the Chechen Republic, and met representatives of the non-governmental organisation, Memorial.

The delegation visited the following places where persons deprived of their liberty may be held:

- Temporary Department of Internal Affairs, Argun
- Temporary Department of Internal Affairs, Goudermes
- Temporary Department of Internal Affairs, Ocktyabrskyi District, Grozny
- Temporary Department of Internal Affairs, Kurčaloj
- Temporary Department of Internal Affairs, Šatoj
- Temporary Department of Internal Affairs, Urus-Martan
- Convoy Unit of the Ministry of Justice, Khankala Base of the Allied Group of Armed Forces
- Sizo No. 2, Chernokozovo.

The delegation also visited the main hospitals in Argun, Kurčaloj, Šatoj and Urus-Martan as well as the Forensic Bureau of the Chechen Republic (located at Clinical Hospital No. 9 in Grozny).

At the end of the visit, the delegation held consultations with the Russian authorities.

Hunger strikes in Turkey
(18-21 April 2001)

In response to mounting concern about the hunger strike crisis related to the prison system, a delega-

tion of the CPT returned to Turkey. It held consultations with both Government authorities and non-governmental organisations.

The delegation considers that the agreement reached late last week at Government level on several draft laws concerning prison matters is a positive development. Of particular interest are the draft laws on the amendment of Article 16 of the 1991 Law to Fight Terrorism, on the establishment of prison monitoring boards, and on the creation of sentence execution judges. These draft laws have the potential to bring about important reforms of the Turkish prison system. The delegation has emphasised that the rapid adoption and entry into force of the draft laws should be treated as a matter of the highest priority; it is pleased to note that they have already been formally submitted to the Turkish Grand National Assembly.

At the same time, the delegation recognises that doubts are still held in various quarters on a number of important issues linked to these reforms. Those doubts should be given due consideration during the process of implementing the reforms, including through consultation with civil society.

The draft law on the amendment of Article 16 of the 1991 Law to Fight Terrorism is of particular importance. The present wording of Article 16 implies a system of isolation, and a generalised system of small group isolation is currently operated in the four F-type prisons now in service. As the CPT made clear after its January 2001 visit, this is not acceptable and must be ended quickly. The CPT has acknowledged the drawbacks of the ward (large dormitory) system traditionally found in Turkish prisons. However, it has also emphasised that moves towards smaller living units for prisoners must be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in a programme of communal activities outside their living units.

F-type prisons do possess areas specifically designed for communal activities, and the proposed new wording of Article 16 provides for prisoners to participate in activity programmes in those areas. The draft law foresees a number of factors to be taken into account in the planning and delivery of the activity programmes. This cannot be criticised from a penological standpoint. Nevertheless, the delegation has noted that these provisions have in some circles caused concern as to how and to whom the activity programmes will be offered in practice. As in any prison system, it may be necessary, for a certain period of time, to make exceptional arrangements for specific prisoners on account of their dangerousness. However, the great majority of prisoners in F-type prisons could certainly benefit from a developed programme of communal activities outside their living units without jeopardising security. Further, concepts such as education, improvement and training must not be exploited for ideological purposes. These issues will be monitored closely by the CPT during future visits, as the implementation of communal activity programmes in F-type prisons proceeds.

It is also important not to lose sight of other significant aspects of the proposed prison reforms, such as the measures to enhance prisoners' contacts with the outside world. By virtue of the draft law on the amendment of Article 16 of the Law to Fight Terrorism, the prohibition of open visits for prisoners covered by that Law or Law No. 4422 of 30 July 1999 will be lifted. Further, a draft by-law provides that all prisoners, regardless of their status and category, are to be allowed to make telephone calls on a regular basis. Reforms of this kind can only be welcomed.

The CPT delegation greatly regrets the loss of life which has occurred in the course of the current hunger strike protest and very much hopes that means will rapidly be found of ending the hunger strikes. In this regard, the delegation considers that immediate steps should be taken to explain in an objective and thorough way to all those involved in the hunger strikes the various elements contained in the prison reform proposals. As things stand, it is only right that everyone concerned should be fully and accurately informed.

Further, the CPT delegation has urged the Turkish authorities to explore all possible means of immediately attenuating the small group isolation system which flows from the present text of Article 16 of the Law to Fight Terrorism. The delegation is aware of the legal objections to applying the new arrangements for communal activities prior to the adoption of the draft law by Parliament. However, when lives are at stake, some degree of flexibility within the framework of existing legislation and legal principles is surely possible.

Georgia
(6-20 May 2001)

A delegation of the CPT recently carried out a two-week visit to Georgia. The visit began in Tbilisi on 6 May 2001 and was organised within the framework of the CPT's programme of periodic visits for 2001. It was the Committee's first periodic visit to Georgia.

In the course of its visit, the CPT's delegation met Mikheil Saakashvili, Minister of Justice, Kakha Targamazde, Minister of Internal Affairs, Nugzar Babutsidze, Deputy Minister of State Security, Gela Bejuashvili, Deputy Minister of Defence, Marina Gudushauri, Deputy Minister of Labour, Health-care and Social Protection, as well as other senior officials from these ministries. The delegation also held discussions with Gia Meparishvili, Prosecutor General, Nana Devdariani, Public Defender of Georgia, Rusudan Beridze, Deputy Secretary of the National Security Council, and Konstantin Kemularia, Deputy

Chairman of the Parliamentary Committee on Human Rights.

The delegation visited the following places:

Police establishments

Tbilisi

- Temporary detention isolator of the Ministry of Internal Affairs
- Temporary detention isolator of the Main City Department of Internal Affairs
- Didube-Chughureti District Division of Internal Affairs
- Isani-Samgori District Division of Internal Affairs
- Vake-Saburtalo District Division of Internal Affairs
- 1st Police Department of Mtatsminda-Krtsanisi District Division of Internal Affairs
- 3rd Police Department of Mtatsminda-Krtsanisi District Division of Internal Affairs
- 3rd Police Department of Vake-Saburtalo District Division of Internal Affairs
- Transport Police Department, 24 Tamar Mepe Avenue

Kutaisi

- City Department of Internal Affairs
- Temporary detention isolator of the Imereti Regional Department of Internal Affairs
- 1st, 2nd, 3rd, 4th and 5th District Divisions of Internal Affairs
- Temporary detention isolator of the Department of Internal Affairs, Gori
- Temporary detention isolator of the Department of Internal Affairs, Poti
- Temporary detention isolator of the Division of Internal Affairs, Tskaltubo

State Security detention facilities

- Temporary detention isolator of the Ministry of State Security, Tbilisi

Penitentiary establishments

- Prison No. 1, Tbilisi
- Prison No. 5, Tbilisi
- Central prison hospital, Tbilisi

Psychiatric hospitals

- Strict regime Psychiatric Hospital, Poti

Military detention facilities

- Disciplinary unit ("Gauptvachta") of Kutaisi Garrison.

Malta
(13-19 May 2001)

A delegation of the CPT recently carried out a six-day visit to Malta. The visit began on 13 May 2001 in Valetta, and was organised within the framework of the CPT's programme of periodic visits for 2001. It was the Committee's third periodic visit to Malta.

In the course of its visit, the CPT's delegation met Lawrence Gonzi, Deputy Prime Minister and Minister for Social Policy, Tonio Borg, Minister for Home Affairs, and Louis Deguara, Minister of Heath, as well as senior officials from those Ministries. It also held discussions with Anthony Borg Barthet, Attorney General and Joseph Sammut, Ombudsman.

The delegation visited the following places:

Police establishments

- Fort Mosta Police Station
- St Julian's Police Station[1]
- Sliema Police Station[1]
- Valetta Police Station
- Victoria Police Station (Gozo)
- Xaghra Police Station (Gozo)
- Cells at Luqa International Airport[1]
- Ta'Kandja Police Complex, Siggiewi[1]
- Lock-up at the Courts of Justice, Valetta[1]

Prisons

- Corradino Correctional Facility[1]
- Substance Abuse Therapeutic Unit, Mtahleb

Psychiatric institutions

- Mount Carmel Hospital (forensic ward), Attard[1]

Moldova
(10-23 June 2001)

A delegation of the CPT recently carried out a thirteen-day visit to Moldova. The visit started in Chişinău on 10 June 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 second periodic visit to Moldova, the previous visit having taken place in 1998.[1]

In the course of this second visit, the CPT's delegation met Mr Valeriu Troenco, Deputy Minister of Justice and Head of the Department for Penitentiary Establishments, Mr Gheorghe Popa, Deputy Minister of Defence and Mr Turcanu Gheorghe, First Deputy Minister of Health. The delegation also met Mr Dediu Valenti, Head of Department in the Security and Information Service of the Republic of Moldova, as well as Mr Nicolae Oprea, Mr Andrei Vicol and Mr Malic Gheorghe, respectively Deputy Prosecutor General and Heads of Directorates in the Prosecutor General's Office. Discussions were also held with the Parliamentary Advocate, Mr Alex Potinga.

In the framework of the visit, the CPT's delegation followed up a number of issues examined during the first visit concerning, in particular, the treatment and conditions of detention of persons in police custody and in prison, including persons sentenced to life imprison-

1. Follow-up visit.

ment. Issues tackled for the first time in Moldova included deprivation of liberty in military establishments and the situation of immigration detainees.

The delegation visited the following places:

Police establishments

Anenii-Noi

– EDP[2] of Anenii-Noi Police Station

Bălți

– EDP of Bălți Police Station[3]

Bender

– EDP of Bender Police Station

Cahul

– EDP of Cahul Police Station

Chişinău

– EDP of Chişinău Police Inspectorate[3]
– EDP of the Department for the fight against organised crime and corruption[3]
– EDPs of Buiucani, Ciocana[3] and Râşcani District Police Stations

Comrat

– EDP of Comrat Police Station

Hânçesti

– EDP of Hânçesti Police Station

Ialoveni

– EDP of Ialoveni Police Station

Sângerei

– EDP of Sângerei Police Station

Information and Security Service of the Republic of Moldova

– EDP of the Information and Security Service, Chişinău

Border Guard establishments

– Holding facilities of the Department of Border Guards at Chişinău International Airport

Prisons

– Prison No. 2 and Colony No. 8, Bender
– Prison No. 5, Cahul
– Prison No. 3, Chişinău[3]
– Pruncul Prison Hospital
– Unit for prisoners sentenced to life imprisonment at Prison No. 17 in Rezina

Moreover, the delegation went to Prison No. 1 in Bălți and to Pruncul Colony No. 9 in order to interview detainees.

Military detention facilities

– Garrison of the Chişinău Military Command.

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 **Austrian Government** has requested the publication of the report of the CPT on the visit to Austria in September 1999 and of its response. The visit was carried out from 19 to 30 September 1999 within the framework of the CPT's programme of periodic visits for 1999; it was the Committee's third periodic visit to Austria (CPT/Inf (2001) 8 [FR], [DE] and CPT/Inf (2001) 9 [EN], [DE]).

The **United Kingdom Government** has requested the publication of the report of the CPT on the visit to Northern Ireland in November/December 1999 and of its response. The visit was carried out within the framework of the CPT's programme of periodic visits for 1999; it was the Committee's second visit to Northern Ireland (CPT/Inf (2001) 6 [EN] and CPT/Inf (2001) 7 [EN]).

The **Croatian Government** has requested the publication of the report of the CPT on the visit to Croatia in September 1998 and of its interim and follow-up responses (CPT/Inf (2001) 4 [EN] and CPT/Inf (2001) 5 [EN]).

The **Hungarian Government** has requested the publication of the report of the CPT on the visit to Hungary in December 1999 and of its response (CPT/Inf (2001) 2 [EN] and CPT/Inf (2001) 3 [EN]).

The **Turkish authorities** have requested the publication of preliminary observations made by the delegation of the CPT which visited Turkey in December 2000 and January 2001 (Press release/Observations [EN] – Communiqué de presse/Observations [FR]).

The **Turkish authorities** have agreed to the publication of the report drawn up by the CPT after its visit to Turkey from 19 to 23 August 1996. The visit report is published together with the response of the Turkish Government (CPT/Inf (2001) 1 [EN]).

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.

1. The CPT's report on its first visit to Moldova, as well as the response of the Moldovan authorities, have been made public at the request of the Moldovan Government. These documents can be consulted on the CPT's website or obtained from the CPT's Secretariat.
2. Establishment for Pre-trial Detention.
3. Follow-up visit.

Composition of the CPT – the Assembly debates

With a view to strengthening the effectiveness and credibility of the Committee for the Prevention of Torture, the Parliamentary Assembly adopted, on 23 May 2001, Resolution 1248 (2001) and Recommendation 1517 (2001).

The full versions of these documents are reproduced in the appendix to the *Bulletin*.

3. Members of the CPT at 30 June 2001 by order of precedence

Mrs Silvia Casale *British* President

Mrs Ingrid Lycke Ellingsen *Norwegian* 1st Vice-President

Mr Volodymyr Yevintov *Ukrainian* 2nd Vice-President

Mr Arnold Oehry *Liechtensteiner*

Mr Leopoldo Torres Boursault *Spanish*

Mr Safa Reisoğlu *Turkish*

Mr Ivan Zakine *French*

Mrs Gisela Perren-Klingler *Swiss*

Mr John Olden *Irish*

Mr Florin Stănescu *Romanian*

Mr Mario Benedettini *San Marinese*

Mrs Jagoda Poloncová *Slovakian*

Mrs Christina Doctare *Swedish*

Mr Adam Łaptaš *Polish*

Mr Zdenek Hájek *Czech*

Mrs Emilia Alexandrova Drumeva *Bulgarian*

Mr Pieter Reinhard Stoffelen *Dutch*

Mr Ole Vedel Rasmussen *Danish*

Mrs Renate Kicker *Austrian*

Mr Pierre Schmit *Luxemburger*

Mr Andres Lehtmets *Estonian*

Mr Davor Strinović *Croatian*

Mr Aurel Kistruga *Moldovan*

Mr Rudolf Schmuck *German*

Mr Aleš Butala *Slovene*

Mr Yuri Kudryavtsev *Russian*

Mrs Veronica Pimenoff *Finnish*

Ms Maria Teresa Pizarro Beleza *Portuguese*

Mr Fatmir Braka *Albanian*

Mr Nikola Matovski *citizen of "the Former Yugoslav Republic of Macedonia"*

Mr Petros Michaelides *Cypriot*

Mr Marc Nève *Belgian*

Mr Eugenijus Gefenas *Lithuanian*

Mr Antoni Aleix Camp *Andorran*

Mr Mario Felice *Maltese*

M. Pétur Hauksson *Icelandic*

Mrs Ioanna Babassika *Greek*

M. Mauro Palma *Italian*

Mrs Anhelita Kamenska *Latvian*

CPT STANDARDS BROUGHT TO YOUR DESKTOP

Patrick Müller, the CPT's database manager, answers questions on this new source of information.

What prompted the CPT's decision to launch its own database?

We felt that ten years after its creation the CPT needed a database to cover its activities. To date, delegations from the CPT have carried out over a hundred visits and more than seventy reports have been published. The information is extensive: the database contains the equivalent of more than 5 000 A4 pages.

So the sheer volume of this documentary information made it essential to offer a research tool aimed at better promoting the standards of the CPT, whose aim is to co-operate, not to condemn.

Who are the intended users?

Our principal user-base is composed of public authorities, NGOs, intergovernmental organisations, research institutes, lawyers, etc. The aim is to make available a compendium of the CPT's recommended measures, to establish norms accessible both to the authorities responsible and to NGOs who might want information in the area of their activities, for example.

What sort of information does the database contain?

Three types of document:

- all the published reports in English or French;
- the "substantive sections" of the annual reports in English and French. The annual reports offer recommendations covering basic standards on a thematic basis;
- public declarations in English and French.

To put it briefly: all documentation covering the CPT's standard-setting activities.

How often is it updated?

The database is currently up-to-date because it contains all public documents. Each report published is added to the database on the day of its publication.

Does this database replace the CPT's Internet site?

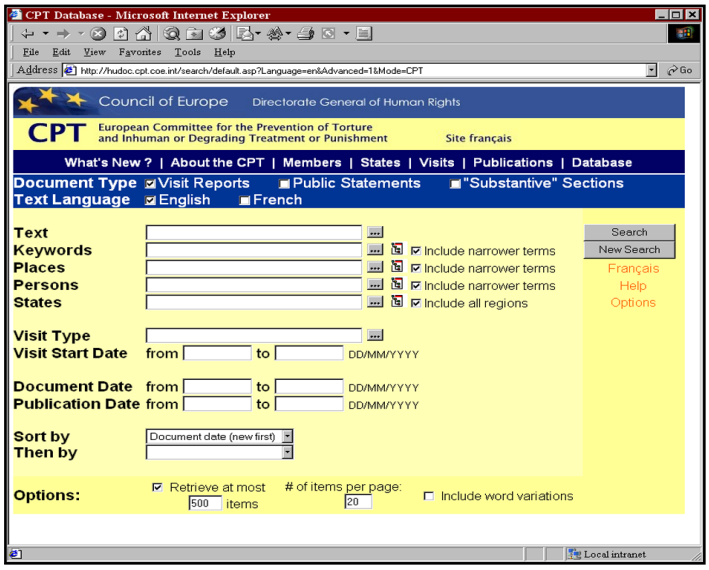
No, it is complementary. The existing Internet site gives fast access to complete documents, and contains the entire catalogue of visit reports and publications. The database is a sophisticated interactive tool that provides far more detailed search facilities.

What software is used to manage the database?

The CPT database is one aspect of the HUDOC project, which is intended to be a complete source for human rights information in general. We are therefore using the same software as was used to create the first part of HUDOC, that is the database covering the European Convention on Human Rights.

So one could say that the CPT database is designed the same way as the European Convention on Human Rights database?

Not exactly. There is still a significant difference between them. The documents that make up the CPT's database are split up into small sections. The original documents run sometimes to a hundred pages and always cover a large variety of topics. By splitting them up we can better extract relevant sections. So the seventy reports are broken up into 3 500 sections that have been thoroughly indexed.



On what basis are the search terms defined?

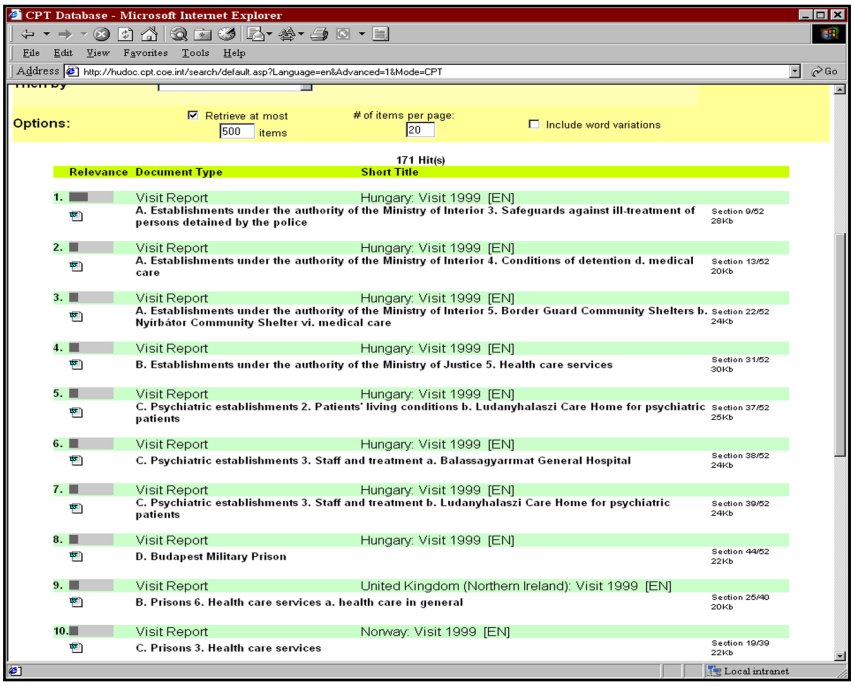
In fact there are three lists of keywords:

- "keywords" in the strict sense;
- a supplementary list of "places of detention";
- a supplementary list of "persons detained".

The three lists are hierarchically structured: results of searches may be ordered either alphabetically or according to this hierarchy. For example, a search for "prison" may include all types of prison, those holding both sentenced and remanded prisoners. The lists are bilingual. So users may search, for instance, under either "access to a lawyer" or "accès à un avocat". The three lists are designed to offer a high level of flexibility. If one wishes to search for the terms *information on rights – police* and *information on rights – psychiatry*, we start off with the keyword information on rights and make it more specific by adding the keywords *police* and *psychiatry*.

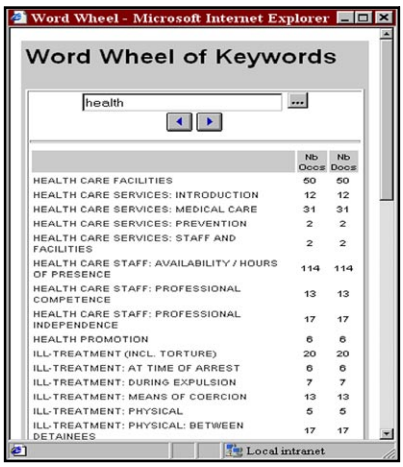
Why invest so much work in defining keywords?

On the one hand we wanted to be sure the terms used allowed in-depth research; on the other we had to follow the very detailed standards of the CPT, whose special status authorises it to visit places of detention. In addition, most of the CPT's reports exist in English or French. We therefore had to choose keywords that would allow searches in the database using either English or French.



What search methods are possible?

Either full-text searching or by choosing from a list of terms: by keyword, by country, by date or by example. A "guided tour" is available on the web site at http://hudoc.cpt.coe.int.



Are there any usage statistics?

Since the launch of the database on 17 May 2001 we have been pleased to note around thirty to forty consultations per day.

We are working in a very specialist area, and the research tool is therefore oriented very much towards our target users: that is, legal professionals, including national authorities, NGOs, academics and so on.

So our prime concern is one of quality rather than quantity: will users be able to find what they are looking for in a database containing such diverse subjects as medical confidentiality in prison, expulsion procedures for aliens, and ill-treatment of psychiatric patients? We certainly hope that anyone searching for this sort of subject will meet with success.

Access the CPT database at:

http://hudoc.cpt.coe.int :

or from the CPT's Internet site,

http://www.cpt.coe.int

(choose the menu item "Database").

For further information:

e-mail to cptdoc@coe.int.

D. Framework Convention for the Protection of National Minorities

I. State of signatures and ratifications of the convention at 30 June 2001

Member States	Signature	Ratification	Entry into force	R	D
Albania	29/06/95	28/09/99	01/01/00		
Andorra					
Armenia	25/07/97	20/07/98	01/11/98		
Austria	01/02/95	31/03/98	01/07/98		•
Azerbaijan		26/06/00 a	01/10/00		•
Belgium					
Bulgaria	09/10/97	07/05/99	01/09/99		•
Croatia	06/11/96	11/10/97	01/02/98		
Cyprus	01/02/95	04/06/96	01/02/98		
Czech Republic	28/04/95	18/12/97	01/04/98		
Denmark	01/02/95	22/09/97	01/02/98		•
Estonia	02/02/95	06/01/97	01/02/98		•
Finland	01/02/95	03/10/97	01/02/98		
France					
Georgia	21/01/00				
Germany	11/05/95	10/09/97	01/02/98		•
Greece	22/09/97				
Hungary	01/02/95	25/09/95	01/02/98		
Iceland	01/02/95				
Ireland	01/02/95	07/05/99	01/09/99		
Italy	01/02/95	03/11/97	01/03/98		
Latvia	11/05/95				
Liechtenstein	01/02/95	18/11/97	01/03/98		•
Lithuania	01/02/95	23/03/00	01/07/00		
Luxembourg	20/07/95				•
Malta	11/05/95	10/02/98	01/06/98	•	•
Moldova	13/07/95	20/11/96	01/02/98		
Netherlands	01/02/95				
Norway	01/02/95	17/03/99	01/07/99		
Poland	01/02/95	20/12/00	01/04/01		•
Portugal	01/02/95				
Romania	01/02/95	11/05/95	01/02/98		
Russia	28/02/96	21/08/98	01/12/98		•
San Marino	11/05/95	05/12/96	01/02/98		
Slovakia	01/02/95	14/09/95	01/02/98		
Slovenia	01/02/95	25/03/98	01/07/98		•
Spain	01/02/95	01/09/95	01/02/98		
Sweden	01/02/95	09/02/00	01/06/00		•
Switzerland	01/02/95	21/10/98	01/02/99		•
"The former Yugoslav Republic of Macedonia"	25/07/96	10/04/97	01/02/98		•
Turkey					
Ukraine	15/09/95	26/01/98	01/05/98		
United Kingdom	01/02/95	15/01/98	01/05/98		

Non-member States	Signature	Ratification	Entry into force	R	D
Bosnia and Herzegovina		24/02/00[a]	01/06/00		
Federal Republic of Yugoslavia		11/05/01[a]	01/09/01		

[a] = accession

R= reservation

D= declaration

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

2. State reports and status of monitoring work

[pub] = report available
[nyp] = report not yet public

Member States	First report due	First report received	First Advisory Committee opinion adopted	Committee of Ministers Conclusions and Recommendations adopted
Albania	01/01/01			
Andorra				
Armenia	01/11/99	11/06/01		
Austria	01/07/99	15/11/00		
Azerbaijan	01/10/01			
Belgium				
Bulgaria	01/09/00			
Croatia	01/02/99	16/03/99	06/04/01[nyp]	
Cyprus	01/02/99	01/03/99	06/04/01[nyp]	
Czech Republic	01/04/99	01/04/99	06/04/01[nyp]	
Denmark	01/02/99	06/05/99	22/09/00[nyp]	
Estonia	01/02/99	22/12/99		
Finland	01/02/99	16/02/99	22/09/00[pub]	
France				
Georgia				
Germany	01/02/99	24/02/00		
Greece				
Hungary	01/02/99	21/05/99	22/09/00[nyp]	
Iceland				
Ireland	01/09/00			
Italy	01/03/99	03/05/99		
Latvia				
Liechtenstein	01/03/99	03/03/99	30/11/00[nyp]	
Lithuania				
Luxembourg				
Malta	01/06/99	27/07/99	30/11/00[nyp]	
Moldova	01/02/99	29/06/00		
Netherlands				
Norway	01/07/00	02/03/01		
Poland	01/04/02			
Portugal				
Romania	01/02/99	24/06/99	06/04/01[nyp]	
Russia	01/12/99	08/03/00		
San Marino	01/02/99	03/02/99	30/11/00[nyp]	
Slovakia	01/02/99	04/05/99	22/09/00[pub]	
Slovenia	01/07/99	29/11/00		
Spain	01/02/99	19/12/00		
Sweden	01/06/01	05/06/01		
Switzerland	01/02/00	16/05/01		
"The former Yugoslav Republic of Macedonia"	01/02/99			
Turkey				
Ukraine	01/05/99	02/11/99		
United Kingdom	01/05/99	26/07/99		

Non-member States	First report due	First report received	First Advisory Committee opinion adopted	Committee of Ministers Conclusions and Recommendations adopted
Bosnia and Herzegovina	01/06/01			
Fed. Rep. of Yugoslavia	01/09/02			

E. European Convention on Transfrontier Television

1. State of signatures and ratifications of the Convention at 30 June 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"	**30/05/01**	
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.

2. Reservations and declarations

The former Yugoslav Republic of Macedonia

Declaration made at the time of signature on 30 May 2001 – Or. Engl.

The authority in Republic of Macedonia, designated in accordance with Article 19, paragraph 2, of the Convention is the:

Broadcasting Council
Ilindenska, 9
1000 Skopje – the Republic of Macedonia
Tel. 389 2 12 90 84 – 389 2 10 93 38
Fax 389 2 10 93 38

Reservation made at the time of signature on 30 May 2001 – Or. Engl.

The Government of Republic of Macedonia, in accordance with Article 32, paragraph 1, sub-paragraph *a*, of the Convention, reserves the right to restrict the retransmission on the territory of the Republic of Macedonia of programme services containing advertisements for alcoholic beverages which do not comply with Republic of Macedonia domestic legislation.

Lithuania

Declaration contained in a Note Verbale from the Ministry of Foreign Affairs of Lithuania, dated 28 February 2001, registered at the Secretariat General on 9 March 2001 – Or. Engl.

In accordance with Article 19, paragraph 2, of the Convention, the Government of the Republic of Lithuania has designated the Ministry of Culture as the competent authority of the Republic of Lithuania that will perform the provisions of the said Convention.

II. Other human rights activities of the Council of Europe

A. Committee of Ministers

Recommendations to member states and resolutions

Management of organ transplant waiting lists and waiting times

Recommendation Rec (2001) 5, 7 March 2001

The Committee of Ministers recommends that governments of member states should guarantee that a system exists to provide equitable access to transplantation services for patients which ensures that organs and tissues are allocated in conformity with transparent and duly justifiable rules according to medical criteria.

Access to Council of Europe documents

Resolution Res (2001) 6, 12 June 2001

To make sure that the Council of Europe follows the same principles and standards which it lays down for its member states concerning freedom of information and access to archives, the Committee of Ministers institutes, by this resolution, an information policy, based on the principle that "transparency is the rule and confidentiality the exception".

Declarations

Call for an immediate halt to the violence in "The former Yugoslav Republic of Macedonia"

21 March 2001

The Committee of Ministers calls for an immediate halt to the violence from extremist Albanian armed forces, supported from outside the country, which constitutes a threat to the stability and security of the entire region.

The Committee of Ministers reiterates its attachment to the inviolability of the internationally recognised borders in the region and to the sovereignty and territorial integrity of "the former Yugoslav Republic of Macedonia", as one multi-ethnic state.

It reaffirms its willingness to support all efforts to improve inter-ethnic relations and the rule of law, to create a climate of trust and tolerance, and to strengthen democracy and human rights in the region.

Replies by the Committee of Ministers to recommendations and written questions of the Parliamentary Assembly

The selection of replies below is limited to those containing essential information or presenting a new development

Role of women in the field of science and technology

Reply to Recommendation 1435 (1999)

The Committee of Ministers notes that the Council of Europe's current works highlight the scepticism which exists towards the revision of school curricula and teaching materials in the field of science as well as towards setting up specific project-promotion programmes to encourage young women to qualify for and choose scientific careers. The Steering Committee for Equality between Women and Men (CDEG) is at present concentrating its activities on violence against women and the promotion of the balanced participation of women and men in political and public life.

The seminar on "A new social contract between women and men: the role of education" drew up recommendations to be followed up by a group of specialists to be created in 2001.

Threat posed to democracy by extremist parties and movements in Europe

Reply to Recommendation 1438 (2000)

The Committee of Ministers recalls that in addition to ECRI, several other sectors of the Organisation actively contribute to the achievement of this aim and on the normative level: the European Convention on Human Rights and its Protocol No. 12; the Framework Convention for the Protection of National Minorities; and the Convention on the Participation of Foreigners in Public Life at Local Level. It informs the Assembly that it has retained the theme of non-discrimination, with emphasis on the fight against intolerance and racism, in the context of its monitoring activity.

Education in Bosnia and Herzegovina

Reply to Recommendation 1454 (2000)

The Committee of Ministers informs the Assembly that despite notable successes achieved, there is no margin for complacency: with regard to history teaching in schools, the tendency is still to teach a version of history which is viewed from the single perspective of one ethnic group, and segregation is still practised in schools. The Committee of Ministers will continue its monitoring on the political level to ensure that the conditions in the field of education reform for the accession of Bosnia and Herzegovina to the Council of Europe are met.

Repatriation and integration of the Tatars of Crimea

Reply to Recommendation 1455 (2000)

The Committee of Ministers has communicated the recommendation to member governments and to several international organisations.

The Committee of Ministers notes the utmost importance of the steps taken by the Ukrainian authorities in the field of repatriation and integration of the Tatars of Crimea, in particular the steps taken to simplify the acquisition of Ukrainian citizenship.

Setting up a European Ombudsman for children

Reply to Recommendation 1460 (2000)

The Committee of Ministers is bringing together these important aspects of action undertaken for children as well as an outline of its future commitments to work for the legal protection of children and the promotion of a child-friendly society in the Political Message on Children, currently under preparation, which it intends to transmit to the Special Session of the United Nations General Assembly on Children (New York, 19-21 September 2001).

Media education

Reply to Recommendation 1466 (2000)

The Committee of Ministers reiterates the importance of this question, particularly as regards the cohesion, stability and economic development of Greater Europe. It points out that many member states have already taken steps to promote media education. The Committee of Ministers will continue to pay attention to the problem of media education and will also bear it in mind while preparing its programme of activities for 2002.

Situation of gays and lesbians and their partners in respect of asylum and immigration in the member states of the Council of Europe

Reply to Recommendation 1470 (2000)

The Committee of Miniters informs the Assembly that different committees have taken steps to give effect to the Assembly's request concerning the holding of exchanges of views and experience on this subject.

The United Nations at the turn of the new century

Reply to Recommendation 1476 (2000)

The Committee of Ministers reports three positive developments resulting from the Parliamentary Assembly's recommendations:

i. regular contacts and consultations between the United Nations and the Council of Europe Secretaries General
ii. a European Conference "All different, all equal: from principle to practice" to advance the preparations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in Durban
iii. contributing to UN activities in Kosovo on legislation and reforms in line with the European Convention on Human Rights.

The Committee of Ministers is committed to continuing a fruitful and target-oriented co-operation between the Council of Europe and the United Nations, to ensure complementarity of efforts in the fields of conflict-prevention and peace-building, especially by promoting human rights, democracy and the rule of law.

Charter of Fundamental Rights of the European Union

Reply to Recommendation 1479 (2000)

The Committee of Ministers assigned the Steering Committee for Human Rights (CDDH) the task of carrying out a prior examination of the various technical and legal aspects of possible accession by the European Communities/European Union to the European Convention on Human Rights. The CCDH should also look at other means of avoiding any contradiction between the legal systems of both organisations.

Situation in the Federal Republic of Yugoslavia

Reply to Recommendations 1481 (2000) and 1491 (2001)

The Committee of Ministers recalls that significant developments have taken place since the adoption of these texts, including the granting of "Special Guest Status" to this country.

It states a number of priority activities that have already been implemented and additional proposals. As no budgetary provision was included in the budget for 2001, a number of voluntary contributions have already been pledged.

Conflict in the Chechen Republic – recent developments; and the humanitarian situation of refugees and internally displaced persons

Reply to Recommendation 1498 (2001)

The Committee of Ministers stresses the importance of seeking a political solution for the restoration of the rule of law in the Chechen Republic, on the basis of the sovereignty and territorial integrity of the Russian Federation.

The Committee of Ministers confirms its readiness to give the Russian authorities all possible assistance with the institutional reconstruction and restoration of democracy in Chechnya, notably by the organisation of a seminar, as a follow-up to that held in Vladikavkaz in 2000.

The Committee of Ministers continues to follow very closely developments in the Chechen Republic of the Russian Federation within the framework of its regular meetings. It took note of the Report by the Council of Europe Commissioner for Human Rights on his visit to the Russian Federation including the Chechen Republic from 25 February to 4 March 2001. Ways of implementing the Commissioner's proposals will be discussed with the Russian authorities. The European Committee for the Prevention of Torture (CPT) also co-operates with the Russian authorities, which have authorised the publication of the report of the CPT's first visit to Chechnya. Lastly, the Committee of Ministers intends to ask the Secretary General to assign to a team of legal experts the task of examining jointly with a team of Russian experts the conformity of the "1998 Russian Federal Law on the Suppression of Terrorism" with Council of Europe standards.

Honouring of obligations and commitments by Latvia

Reply to Recommendation 1490 (2001)

The Committee of Ministers stresses Latvia's constant willingness to co-operate with the Council of Europe. This co-operation has certainly been instrumental in the progress achieved in some of the most delicate issues: in particular naturalisation procedures and legislation favourable to foreigners.

Freedom of expression and the functioning of parliamentary democracy in Ukraine

Reply to Recommendation 1497 (2001)

The Committee of Ministers informs the Assembly that, within the framework of its own monitoring procedure, a stock-taking on this theme is currently under preparation.

Concerning the disappearance of journalist Heorhiy Gongadze, the Ukrainian Parliament has requested assistance from the Council of Europe with a view to arranging for independent enquiries.

The Ukrainian Delegation to the Committee of Ministers has presented to the Ministers' Deputies an *aide-mémoire* including proposals for a series of activities relating to the freedom of the media for which the expertise and support of the Council of Europe was requested. In the light of these proposals, an Action Plan has been proposed but no funds are currently available to finance this ambitious programme.

Future of the European Social Charter and additional protocol to the European Convention on Human Rights concerning fundamental social rights

Reply to Recommendations 1354 (1998) and 1415 (1999)

The Committee of Ministers fully agrees that the Social Charter is an important component of the European system of values and that this instrument should serve as a point of reference for an enlarged Europe. It notes that the reference to the Charter made in the Amsterdam treaty is important in achieving this goal. In addition, it notes that the revised Social Charter served as a source of inspiration for the drafting of the European Union's Charter of Fundamental Rights.

It has asked the Steering Committee for Human Rights (CDDH) to give its views on the advisability and feasibility of launching a study with a view to updating the European Convention on Human Rights.

The Committee of Ministers is not at this stage in favour of setting up a European court of social rights or of introducing an individual right to lodge complaints under the Charter. As to the inclusion of some of the rights contained in the Charter in the European Convention on Human Rights, the Committee of Ministers, while not excluding this possibility in due course, considers that priority should be given to consolidating the enhanced mechanisms of the Charter. For its part, the Committee of Ministers will examine how the Charter rights and the conclusions of its supervisory mechanism could be used in its own monitoring procedures. Regarding the proposal to make the "hard-core" articles of the Charter compulsory, the Committee of Ministers wishes to avoid additional difficulties for the current Contracting Parties as well as creating obstacles blocking further ratification of this instrument. Lastly, it is considering the creation of an organisational framework for an ongoing debate with the International Labour Organisation, the OECD and the European Union and other organisations.

Education in the responsibilities of the individual

Reply to Recommendation 1401 (1999)

The Committee of Ministers encourages member states to take or apply more broadly educational and awareness-raising measures to promote a culture of tolerance and solidarity in society. It has instructed the Steering Committee for Human Rights (CDDH) to

give an opinion on the feasibility of a European programme for human rights education.

Trafficking in organs in eastern Europe

Reply to Written Question No. 391

The Committee of Ministers points out that the prohibition of organ trafficking is clearly legally established in Council of Europe member states.

The Secretary General will therefore be asking for reports from all the member states on whether they have legal instruments in place which make organ trafficking illegal and whether steps have been taken to prevent such illegal trade.

The Committee of Ministers places the emphasis on the need for international co-operation to promote organ donation, the trafficking of organs being partly the result of the inadequate quantities of organs stemming from donations. In support of this objective, the Council of Europe has published a European consensus document which addresses the technical and organisational aspects of transplantation medicine. A guide on safety and quality assurance to ensure Europe-wide safety and ethical standards by which organs are retrieved and transplanted is also in preparation.

Judicial and structural means exist to combat trafficking, in particular: instruments adopted in 2000 by the United Nations; the recent recommendation of the Committee of Ministers to member states on the management of organ transplant waiting lists and waiting times; the Additional Protocol to the Convention on Human Rights and Biomedicine on transplantation of organs and tissues of human origin; the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; the two 1999 European conventions against corruption; the financing offered by the Development Bank of the Council of Europe to develop social infrastructure, especially in the educational and health fields; measures taken as part of the fight against organised crime; and several projects of the Council of Europe, such as the Octopus project to combat corruption and organised crime in the states in transition.

Clemency Commission of the Russian Federation

Reply to Written Question No. 392

Questioned on how it supports the Clemency Commission's work of the Russian Federation Presidential Administration, the Committee of Ministers indicates that it provided active support for two major conferences organised in 1999 and 2000, on the abolition of the death penalty and clemency in the Russian Federation; that it had helped with the three-year campaign launched in 2001 by the Clemency Commission of the Presidential Administration with a view to raising awareness within the public about the need to humanise the penal system; and that the European Committee for the Prevention of Torture's activities constitute an important means of promoting the reform of the criminal justice and prison systems in this country.

108th session of the Committee of Ministers

10-11 May 2001

Extracts from the Final Communiqué:

- **Peace, security and democratic stability in the Balkans and in the Caucasus: the Council of Europe's contribution**

The Ministers stressed their determination to secure acceptance and application at Pan-European level of the fundamental values of the Council of Europe which could facilitate – in close co-operation with other international organisations, in particular the European Union, the OSCE and the United Nations – the search for solutions to ongoing conflicts.

They strongly condemned all forms of terrorism and ethnically motivated violence and referred to the Committee of Ministers' intention to discuss possible intensification of international action against terrorism. They expressed their deep concern at the suffering of refugees, as well as at the fate of internally displaced and missing persons.

They encouraged the countries of the Caucasus to continue and intensify their efforts to achieve greater co-operation within their region. The experience acquired in south-eastern Europe could be useful in this respect.

- **The Council of Europe and democratic stability in the Balkans**

The Ministers expressed their hope that Bosnia and Herzegovina and the Federal Republic of Yugoslavia would soon meet the criteria for membership and be able to join the Council of Europe, which would contribute to the stability of the region.

They invited the newly established Parliament and the Council of Ministers of **Bosnia and Herzegovina** to accelerate the implementation of the required conditions for the accession to the Council of Europe, in particular the strengthening of the central state institutions and the adoption of the necessary legislation, including a permanent electoral law, in accordance with the Dayton/Paris Agreement. They expressed the view that membership by Bosnia and Herzegovina of the Council of Europe would be of vital importance for the strengthening of democracy, rule of law and the consolidation of the parliamentary and governmental institutions in the country.

They called on the authorities of the **Federal Republic of Yugoslavia** to pursue their efforts to implement the commitments which have been accepted by

all candidate countries to ensure that democracy, the rule of law and human rights, including those of national minorities, are fully respected. They also called for the formal abolition of the death penalty. The Ministers stressed the need for full co-operation with the International Tribunal in The Hague (ICTY). All indicted persons must be held accountable for their acts. The arrest of Slobodan Milošević by the Federal Republic of Yugoslavia was an important step in that direction. The Ministers also welcomed the release of a considerable number of imprisoned Kosovo Albanian political prisoners in Serbia and expressed their hope that the remaining cases would be reviewed as rapidly as possible. That would constitute another confidence-building measure, conducive to a reduction of tensions.

They expressed their support for a democratic Montenegro within a democratic Yugoslavia. They urged the new Montenegrin government to resume the dialogue with Belgrade without delay, aiming at an agreed redefinition of federal relations, in accordance with democratic principles and in a way that will contribute to the stability of the region.

With regard to **Kosovo**, the Ministers stressed the Council of Europe's continuing contribution to full implementation of Resolution 1244 of the United Nations Security Council. The Council of Europe could once again, at the request of the United Nations and of the OSCE, envisage playing an important role in the voters' registration process and the observation of the Kosovo-wide elections, which Mr Hans Haekkerup, Special Representative of the United Nations Secretary General and Head of the United Nations Mission in Kosovo (UNMIK), intends to hold later this year, once the necessary conditions, including a comprehensive legal framework, are in place and security is assured. They expressed the hope that all communities would register and take part in these elections.

Concerning **"the former Yugoslav Republic of Macedonia"**, the Ministers condemned once again the renewed violent actions by armed Albanian extremist groups threatening the stability of the country. They strongly reaffirmed their support for the territorial integrity of the country, which is a member state of the Council of Europe. The Ministers expressed support for the proportionate response that the country's government has taken so far in dealing with extremist violence and underlined the need for this approach to prevail. They expressed concern at the vicious circle of violence and counter-violence from whatever quarter. In this connection, they gave their full backing to the efforts of the main political forces which have undertaken to form an enlarged government coalition comprising all the parties present in the Parliament.

Still referring to the continuing need for productive dialogue, the Ministers furthermore welcomed the establishment, under the leadership of President Trajkovski, of an institutional mechanism for enhanced dialogue, within which an all-party Europe Committee was set up with a view to pursuing the necessary political, legal and economic reforms to ensure that all citizens irrespective of their ethnic origins feel they have a stake in the country's development. In this context, the Council of Europe stands ready to provide assistance.

The Ministers stressed the Council of Europe's continuing contribution to implementing the Stability Pact for South-Eastern Europe. They welcomed the positive developments on the co-operation between the participating countries in the framework of the Stability Pact as well as in that of the South-East Europe Co-operation Process (SEECP), and other regional organisations, strengthening peace, democracy, regional co-operation and economic development of the area and enhancing European integration.

- **Situation in the Caucasus and the contribution of the Council of Europe**

The Ministers welcomed the presence of **Armenia** and **Azerbaijan**, as full members of the Council of Europe. They called on both countries to pursue the democratic reforms and meet the commitments accepted in the context of their accession. They confirmed their expectation that the accession of the two countries would create a climate of confidence and reconciliation and encouraged them to develop co-operation projects in the framework of the programmes of the Council of Europe, to refrain from introducing elements of enmity and to concentrate on the future. They welcomed the Secretary General's initiative to have three eminent legal experts look into the cases of alleged political prisoners and they looked forward to the results of the mission. The Ministers also looked forward in this context to progress of the OSCE Minsk Process towards settlement of the conflict involving these two new members. They stressed that the solution of this conflict will contribute to respect of human rights, democratic stability and the rule of law in the whole Caucasus region.

With regard to **Georgia**, the Ministers encouraged this country to continue on the path of democratic reforms and implement the commitments undertaken in the context of its accession to the Council of Europe. They expressed their willingness to further support ongoing efforts of the United Nations and the OSCE as regards peaceful resolution of the Georgian-Ossetian conflict and the conflict in Abkhazia, Georgia, as well as the efforts of the United Nations to elaborate a document on the distribution of constitutional competencies between Tbilisi and Sukhumi. The Ministers also assessed positively the active role of the Venice Commission in assisting in these efforts through legal expertise.

They welcomed the holding of the third meeting on confidence-building measures between the Geor-

gian and Abkhaz sides, held in Yalta, Ukraine, and the resumption of dialogue between them.

Concerning the **Chechen Republic**, Russian Federation, the Ministers recalled that they continued to give high priority to contributing, in close consultation with the Russian Federation, as well as with the Council of Europe Human Rights Commissioner and the interested international partners, to the respect for human rights, democracy and the restoration of the rule of law in Chechnya, facilitating a political solution to the crisis.

The Ministers shared serious concern about the situation in the Chechen Republic and, while expressing appreciation for measures undertaken by the Federal Authorities in the field of legal and administrative structures and economic and social reconstruction to improve this situation, they stressed the need for more rapid progress in combating violations of human rights, in the restoration of the rule of law and in political-economic reconstruction. The Ministers condemned all terrorist activities and attacks in particular against civilians, as well as the use of landmines and other devices causing widespread civilian casualties, and called for the immediate release of all hostages.

They agreed that a more effective follow-up should be given to the applications concerning alleged crimes and human rights violations. In this connection, they welcomed the creation of a Joint Working Group between Mr Kalamanov's Office and the General Prosecutor of the Russian Federation, in co-operation with the Military Prosecutor.

The Ministers also welcomed the creation, by the Parliamentary Assembly and the State *Duma* of the Federal Assembly of the Russian Federation, of a Joint Working Group on Chechnya which held its first meeting in Moscow on 21 to 22 March 2001.

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 and non-member states

Freedom of expression and information in the media in Europe

Recommendation 1506 (2001), 24 April 2001

The Assembly states that, despite the enormous progress in this field achieved in central and eastern Europe, serious and unacceptable violations of Article 10 of the European Convention on Human Rights are still committed: violence against journalists, use of defamation laws and legal provisions relating to national security, harassment of all kinds, etc. Precarious economic conditions and a low level of democratic culture are themselves a threat to freedom of expression, since they transform the media into mercenaries acting upon orders.

Throughout Europe, new challenges rise, caused by globalisation of the media market, concentration restricting media pluralism, and drift of the cultural and democratic resource which media constitute towards "infotainment".

The Assembly reiterates its position, stated in Recommendation 1407 (1999) on media and democratic culture, that the Council of Europe should exert moral and political pressure upon governments which violate freedom of expression. It recommends that new ways be found of ensuring that Council of Europe media standards are taken into account in the legislation and practive of member states and calls for closer coordination amongst international organisations concerned with this field.

Europe's fight against economic and transnational organised crime: progress or retreat?

Recommendation 1507 (2001), 24 April 2001

Economic crime is becoming more international, financially powerful and technologically refined, threatening to undermine democracy, the rule of law and stability on the continent.

The Assembly believes that urgent agreement between Council of Europe member states is needed on common principles by which state institutions can repulse pressure from economic crime in its many forms – trafficking in human beings, bribery and influence trading, money laundering, illicit drug and other contraband smuggling, environment crime, counterfeiting, tax fraud and cybercrime. The recommendation contains many proposals to this end.

Situation in Kosovo

Recommendations 1508, 1509 and 1510 (2001), 25 April 2001

The situation in Kosovo and neighbouring regions is a subject of great concern for the Assembly. It would like to see the Council of Europe, together with other international organisations, promoting and consolidating democratic stability and contributing to improve inter-ethnic relations.

Concerning the situation of returnees to Kosovo, the Assembly asks the Committee of Ministers to request member states to abstain from any hasty action which might result an uncontrolled mass arrival of returnees in Kosovo. It recalls that forced repatriation of people at risk would very likely breach the European Convention on Human Rights.

As for the situation of human rights in Kosovo, the Assembly notes that these continue to be widely flouted. It hopes that an autonomous assembly, able to make laws acceptable to everyone, be set up rapidly.

Concerning the cultural situation, it recommends promoting a policy of equity with a view to bridging the gap beween ethnic groups.

Honouring of obligations and commitments of Ukraine

Resolution 1256 and Recommendation 1529 (2001), 28 June 2001

Noting some progress made by Ukraine, notably the adoption of a new criminal code and of a law on political parties, and considering that excluding Ukraine from the Council of Europe would not help Ukrainians to resolve their political crisis and many other problems they face, the Assembly decided to grant this country another extension, with a new deadline of June 2001, to comply with the commitments it entered into when it became a member.

Situation in "the former Yugoslav Republic of Macedonia"

Resolution 1255 and Recommendation 1528 (2001), 28 June 2001

An urgent debate was held by the Assembly, which believes that, in this region, the escalation of terrorist actions may lead very soon to a point of no return. It condemned in the strongest terms the action of the extremist groups of Albanian origin and urged them to cease military action and lay down their arms. It called on the parties in the coalition government to conclude an agreement to resolve the crisis.

In the first text, it presented a series of requests to the Macedonian Government, and in the second a number of recommendations to the Committee of Ministers.

It set up an *ad hoc* committee, which will visit the country and report back to it at its September session.

Honouring of obligations and commitments of Turkey

Resolution 1256 and Recommendation 1529 (2001), 28 June 2001

The Assembly encourages the Turkish authorities to continue with the reforms that they have carried out to meet Council of Europe standards, notably and above all in priority areas such as respect for human rights and pluralist democracy, the fight against terrorism, freedom of expression, conditions in police custody, and the elimination of torture and inhuman treatment. It calls for the abolition of the death penalty *de jure* and, in the meantime, the non-enforcement of capital punishment, observed *de facto* since 1984.

It asked the Committee of Ministers to help Turkish authorities with the organisation of a series of seminars on improvements to the prison system, abolition of the death penalty and multi-ethnic societies.

A campaign against trafficking in children to put a stop to the east European route: the example of Moldova

Recommendation 1526 (2001), 27 June 2001

The situation of extreme poverty of Moldova helps the activity of powerful criminal gangs which exploit children and teenagers for the sex trade, traffic in organs and even trade babies over the Internet.

The Assembly calls for financial aid with the priority of developing education, training and employment, free compulsory schooling, proper health care. It recommends also, *inter alia*, the adoption of national legislations against trafficking, the setting up of national lists of missing children and young adults, the training of police forces, the launching of victim support schemes.

Abolition of the death penalty in Council of Europe observer states

Resolution 1253, Recommendation 1522 and Order No. 574 (2001), 25 June 2001

The report drafted by the Council of Europe's parliamentary envoy to the United States and to Japan led to the adoption of a resolution requiring these two countries to institute a moratorium on executions without delay and to take steps to abolish the death penalty, which constitutes torture and inhuman punishment as covered by Article 3 of European Convention on Human Rights. At the same time, the Assembly adopted a recommendation with the same aims.

The Assembly wants to ensure that, henceforth, observer status with the Organisation is granted only to countries which strictly respect a moratorium on executions or have already abolished the death penalty.

Coexistence of the European Convention on Human Rights and the Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States

Resolution 1249 and Recommendation 1519 (2001), 23 May 2001

The Assembly remains concerned about the compatibility of the two conventions. In its opinion, the regional mechanism may offer a minimum of human rights protection to those members of the CIS who do not or cannot aspire to Council of Europe membership, but adherence to the ECHR system of protection should be mandatory and exclusive for members of the Council of Europe. It considers that, taking into account the weaknesses of the CIS commission as an institution for the protection of human rights, it should not be regarded as "another procedure of international investigation or settlement" in the sense of Article 35 para. 2.*b* of the ECHR. It recommends that the Committee of Ministers request that the European Court of Human Rights give an advisory opinion on this issue.

Democracy and legal development

Female genital mutilation

Resolution 1247 (2001), 22 May 2001

The Assembly declares that the universal principles of respect for individuals and their inalienable right to bodily integrity, as well as complete equality between men and women, must take precedence over customs and traditions. It considers that genital mutilation should be regarded as inhuman and degrading treatment within the meaning of Article 3 of the European Convention on Human Rights, and calls on the governments of member states to introduce specific legislation prohibiting genital mutilation, to adopt more flexible measures for granting the right of asylum to mothers and their children who fear being subjected to such

practices, specific time-limits for prosecution that enable the victims to go to court when they reach the age of majority, and to grant organisations the right to bring action. It also calls for the adoption of information and public-awareness-raising measures.

Exercise of the right of conscientious objection to military service in Council of Europe member states

Recommendation 1518 (2001), 23 May 2001

The Assembly recalls that the right of conscientious objection is a fundamental aspect of the right to freedom of thought, conscience and religion enshrined in the European Convention on Human Rights. The diversity of legislation results in unequal levels of protection in Europe. The Assembly therefore recommends the harmonisation of legislation and the incorporation of the right of conscientious objection to military service into the European Convention on Human Rights by means of an additional protocol amending Articles 4.3.*b* and 9.

Transfer of prisoners

Recommendation 1527 (2001), 27 June 2001

The Assembly stresses the importance of the European Convention on the Transfer of Sentenced Persons, which is a valuable aid in promoting social rehabilitation of prisoners convicted in a foreign country. Unfortunately, it does not operate as smoothly as is desirable and, for that reason, the Assembly recommends that the Commitee of Ministers draw up a new recommendation to member states, or, if necessary, a new additional protocol to this convention, with a view, *inter alia*, to:

– streamlining and harmonising the information sought by states,
– establishing clearly that the convention is not intended to permit the immediate release of prisoners returning to their home country,
– explicitly stating that maximum priority should be given to transferring prisoners suffering from mental disorders,
– urging states to respect the right of consent of prisoners, so as to prevent forced transfers.

Protection of human genome

Recommendation 1512 (2001), 25 April 2001

The Assembly would like to see respect for human dignity as the guiding principle for handling the international research project "Human Genome". It believes that, genetic information being a common human heritage, the results of this major research effort must be available to all. Its recommends that every member state concerned set up a national authority to advise on the compliance of research with ethical and moral principles; and calls for the creation of an authority, in the context of the Council of Europe, to monitor the project.

Health and rights of refugees and migrants

Recommendation 1503 (2001), 14 March 2001, on health conditions of migrants and refugees in Europe; Recommendation 1504 (2001), 14 March 2001, on non-expulsion of long-term immigrants; and Recommendation 1525 (2001), of 27 June 2001, on the United Nations High Commissioner for Refugees and the 50th anniversary of the Geneva Convention

The Assembly suggests improvements affecting health, family life and rights of refugees and migrants.

– Concerning the expulsion of long-term immigrants, it asks that it should not be applied except in particularly serious offences affecting state security and that a "double punishment" should not be applied to persons who have already served a prison sentence for the offence which they have committed.
– In the health field, it considers that the right to health associated with access to health care is one of the basic universal human rights and should be equally applied to all people, more especially as migrants are particularly exposed to health problems.
– As for the Geneva Convention, the Assembly expressess its concern about the tendency towards a weakening of the quality of the protection provided to refugees by certain legislation in force in Europe. It considers that the Council of Europe should look into the consequences of this state of affairs and urge member states to consider, with a view to progressively integrating them into their legislation, the various recommendations made by the Parliamentary Assembly and other organs in the Council of Europe on questions relating to refugees and asylum-seekers.

Domestic slavery

Recommendation 1523 (2001), 26 June 2001

Over four million women are estimated to fall victim to trafficking each year, many of them becoming workers for diplomats who are shielded from prosecution.

The Assembly recommends that the Committee of Ministers ask the member states to bring in the specific offence of enslaving and set up ways to protect and rehabilitate the victims of this traffic.

Composition and working methods of the European Committee for the Prevention of Torture

Resolution 1248 and Recommendation 1517 (2001)

These texts are referred to in the chapter of this *Bulletin* devoted to the work of the CPT.

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.

1. European Social Charter

- **Conferences, seminars, meetings, workshops, training programmes**

Training programme (Aix-en-Provence, 2 April 2001)

A member of the Secretariat was invited to present human rights and the European Social Charter within the framework of a cultural co-operation programme between the Institute for Political Studies, Aix-en-Provence, and the Student Union from the University of Tel Aviv. The goal of the programme was to promote inter-cultural pluralism and dialogue.

Seminar (Moscow, 10 April 2001)

This one-day seminar was financed by the Foundation of Human Rights at Work. The issues of the ratification of the European Social Charter for the Russian Federation, as well as other themes covered by the Charter, were discussed. Prior meetings with Russian specialists were held the day before the seminar.

Seminar (Bucharest, 2-3 May 2001)

This seminar, the aim of which was to assist the Romanian authorities in the preparation of drafting a first report in pursuance of the revised Euopean Social Charter, was organised in the framework of the Joint Programme Council of Europe/European Commission "Promotion of the Charter".

Information seminar (Lyon, 10 May 2001)

A member of the Secretariat took part in a one-day meeting on the Social Charter within the framework of a week's events on social rights organised by the Institute of Human Rights of the Catholic University. The morning consisted of a presentation of the Social Charter and the application of the control mechanism. The afternoon session was entitled "Panorama of the stakes of the European Social Charter".

Conference (Moscow, 29-31 May 2001)

A conference was held on the revised European Social Charter, "The 'Hard Core' of the revised Charter: employment and social protection", organised in co-operation with the Ministry of Labour and Social Development of the Russian Federation. This meeting, aimed at federal civil servants and parliamentarians of the State *Duma*, is the first of a series of three activities, organised in the framework of the Joint Programme "Russia IV" between the Council of Europe and the European Commission.

Colloquy (Strasbourg, 15-16 June 2001)

This colloquy, organised by the *Institut de Recherches Carré de Malberg et l'équipe droits de l'homme du GRICE* (*Groupe de recherche interdisciplinaire sur les constructions européennes*) was entitled: "*Les droits sociaux ou la démolition de quelques poncifs*". The aim, after re-examination of the concept of the instruments protecting social rights, was to debate wide-ranging issues such as enforceability and the high cost of social rights.

Multilateral meeting, Council of Europe (Strasbourg, 21-22 June 2001)

A multilateral seminar entitled: "Europeans' Fundamental Rights: which rights for which Europeans?", 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".

- **Publications**

– *The European Social Charter – A treaty of the Council of Europe that protects Human Rights* (English, French, German, Italian, Portuguese and Russian texts available)
– *European Committee of Social Rights – Addendum to Conclusions XV-2*
– *European Committee of Social Rights – Eighth report on certain provisions which have not been accepted*

2. European Commission against Racism and Intolerance (ECRI)

- **Activities**

At its 24th plenary meeting, in March 2001, ECRI adopted its Annual Report for 2000, which contains a detailed description of its activities in the course of the year 2000, as well as a brief analysis of the main trends which it has encountered in the context of the fight against racism, xenophobia, anti-Semitism and intolerance in Europe.

On 3 April 2001, ECRI published its second reports on Albania, Austria, Denmark, "the former Yugoslav Republic of Macedonia" and the United Kingdom and, on 3 July 2001, those on Croatia, Cyprus, Germany and Turkey.

All these documents are available on the web site: http://www.ecri.coe.int/.

- **Publications**

– *Annual report on ECRI's activities 2000 (3/5/2001)* CRI (2001) 20
– *Second report on Albania (3/4/2001)* CRI (2001) 2
– *Second report on Austria (3/4/2001)* CRI (2001) 3
– *Second report on Denmark (3/4/2001)* CRI (2001) 4
– *Second report on "the former Yugoslav Republic of Macedonia" (3/4/2001)* CRI (2001) 5
– *Second report on the United Kingdom (3/4/2001)* CRI (2001) 6
– *Second report on Croatia (3/7/2001)* CRI (2001) 34
– *Second report on Cyprus (3/7/2001)* CRI (2001) 35
– *Second report on Germany (3/7/2001)* CRI (2001) 36
– *Second report on Turkey (3/7/2001)* CRI (2001) 37
– *Proceedings of the European Conference against Racism (Strasbourg, 11-13 October 2000)*

3. Equality between women and men

- **Balanced participation in decision-making**

A group of specialists met to continue 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 is preparing a study of awareness-raising techniques used to achieve balanced representation in decision-making.

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

A seminar on preventing trafficking in human beings was organised in Kyiv, Ukraine, on 12 and 13 June 2001, in co-operation with the League of Ukrainian Women Voters "50/50" and the Ministry of Foreign Affairs of Ukraine. This seminar was aimed at NGO representatives and media professionals.

In the framework of the Gender Task Force set up under the Stability Pact for South-Eastern Europe, the following activities took place thanks to financing from the Austrian Government:

– Seminar on "Measures and actions to promote equality – positive action and gender mainstreaming" (Bucharest, 8-9 March 2001);
– Seminar on women and the media (Budva, Montenegro, 6-7 April 2001).

Another Stability Pact project got under way with financing from the Canadian Government. This project concerns the preparation, translation and dissemination of Council of Europe documents on gender issues specially relevant to the region of south-east Europe.

Further information concerning activities in the field of equality between women and men is available on the Internet: http://www.humanrights.coe.int/equality/.

4. Media

- **Steering Committee on the Mass Media (CDMM)**

The CDMM has completed its work on freedom of political debate in the media and, at its meeting in May, approved a draft declaration addressed to member states on the freedom of the media to disseminate

information and opinions about political figures and public officials. At the same meeting, the Steering Committee also approved a draft recommendation on self-regulation and user protection against illegal or harmful content on new communications and information services. Furthermore, the CDMM held a hearing on the impact of digitalisation on broadcasting services and their regulation as a means of providing input to the work of its subordinate group dealing with the democratic and social implications of digital broadcasting.

Work has progressed within the other groups of specialists with a view to preparing either draft legal instruments or analytical reports on topics such as the provision of information through the media in the context of criminal proceedings, media diversity, convergence and the dissemination of illicit and harmful content on the Internet.

- **Activities for the development and consolidation of democratic stability**

A Joint Initiative between the European Union and the Council of Europe was adopted on 28 March 2001 to adapt the legal framework in the media field in Serbia. International assistance is being provided to a group of legal experts in the Belgrade Media Centre, which has drawn up two draft laws concerning broadcasting and public information. Between April and June, Council of Europe experts submitted analyses on two revisions of the draft broadcasting law and participated in workshops in Belgrade with the drafters and representatives of the Federal Ministry of Telecommunications, which is closely involved in co-ordinating this draft law with the new telecommunications legislation. It is expected that the final version of the draft will be submitted to the Serbian government and Assembly for adoption in the autumn. With regard to the draft legislation on public information, a consensus has yet to be reached by the experts in the Media Centre on two separate texts under review.

A written analysis of proposed amendments to Armenian laws on Radio and Television and on the Press and other Mass Media was conducted in March, and a further analysis of two proposals for a draft Armenian Law on Mass Media was commissioned in April.

Information on other co-operation and assistance activities, including those carried out within the Stability Pact for South-Eastern Europe, can be found on the web site: http://www.humanrights.coe.int/media.

- **Publications**

– *Case-law concerning Article 10 of the European Convention on Human Rights*
Human Rights File No. 18 (published in August 2001)
ISBN 92-871-4647-0

5. Human Rights Co-operation and Awareness Division

Co-operation and awareness activities in the human rights field have proved an important means of achieving the Council of Europe's goals, i.e. the promotion of democracy, respect for the rule of law and the protection of human rights and freedoms. This applies both to new and old member states.

A. Compatibility

Compatibility studies consist in an in-depth examination of the conformity of domestic legislation and practice with the requirements of the European Convention on Human Rights, its protocols and case-law. The **Georgian** compatibility report was discussed in detail at the conference on 29 and 30 March 2001 attended by representatives of different government branches. Conclusions were reached concerning those recommendations of the report which need to be taken up by the government. The **Armenian** report will be discussed in a similar manner at the conference on 6 and 7 July 2001 in Yerevan. For **Albania**, the last meeting of the compatibility group took place in April 2001 in Strasbourg. The relevant report is being finalised and an English version will come out in autumn this year.

Within the framework of the process towards the accession of the **Federal Republic of Yugoslavia** to the Council of Europe, the first meeting of the compatibility working group was held in Strasbourg, 14 and 15 June 2001. The meeting served the purpose of introducing members of the Working Group to the experts of the Council of Europe and the co-ordinator of the Project. It also aimed at identifying a methodology to follow in order to produce a report that would best reflect Yugoslav's situation today, and which would be as useful as possible in providing information on the compatibility of the law and practices with the ECHR. A first draft report will be submitted to the Council of Europe by the Working Group in October, a second report is expected in February 2002 and a Conference open to people from a range of various institutions/organisations/administrations will be organised shortly after to assess the draft report and discuss comments made by the experts. The final report is expected by May 2002.

In April 2001 experts of the Council of Europe went to Moscow to discuss the conclusions of their expertise on the draft Code of Criminal Procedure of the **Russian Federation** at a hearing of the Legislation Committee of the State *Duma*. On 20 June 2001, the *Duma* passed a new (still controversial) Code of Criminal Procedure at its second reading. The Code must still pass a third reading, usually a formality, before going to the upper house.

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 June, the ninth training seminar for Russian judges was organised at the Legal Academy in Moscow. Civil judges of Supreme, Regional and District Courts took part in the training, which was devoted to Article 10 of the European Convention on Human Rights.

On 6 March 2001 a multilateral conference was held in Riga on "The European Convention on Human Rights and its case-law: application by domestic courts and public administration". It was organised by the Ministry of Foreign Affairs of Latvia within the framework of Latvia's chairmanship of the Committee of Ministers together with Human Rights Co-operation and Awareness Division (HRCAD). The conference was attended by participants from the three Baltic states and the three South Caucasus states.

In April, a rare event took place in Baku, **Azerbaijan**. The Seminar on "Society without Torture" was held in prison No. 11 in Baku. The Seminar was attended by 200 prisoners from this prison on the first day and by as many prison guards and officials of custody places on the second day. The seminar was organised by the Institute of Human Rights, the Ministry of Justice and the HRCAD.

In **Georgia**, the work with the NGO community has continued. In May, another training seminar on the ECHR was held in Tbilisi which was organised by the Independent Society "Human Rights in Georgia", the Information and Documentation Centre to the Council of Europe in Tbilisi and the HRCAD.

In June, the first seminar for judges on the ECHR was held in Tbilisi, Georgia, in co-operation with the Judicial Training Centre. It is planned to develop further the co-operation with the Judicial Training Centre with the aim of developing systematic training of judges on the standards of the ECHR applicable in their practice.

In February 2001 an intensive two-year training programme on the ECHR for 35 lawyers, organised in co-operation with *inter alia* the Ukrainian Union of Advocates and Interights was launched in Kyiv, and four sessions have already taken place (covering Articles 2, 3, 5 and 6 of the ECHR).

A very important step was taken with regard to training of judges on the ECHR in Ukraine, during a meeting held in Kyiv on 7 May 2001, where it was decided that a one-year programme of systematic training of all judges in **Ukraine** should be put in place. The Ministry of Justice and the Supreme Court of Ukraine will be the privileged partners of the Council of Europe for the implementation of this programme, which has no funding as yet. As a result of this programme, more than 5 000 judges will have received training on the ECHR.

A pilot training seminar on European human rights standards related to the activities of the police was organised in March 2001 at the National Academy of Internal Affairs in Kyiv. Furthermore, a meeting with the staff of the Academy took place in parallel in order to envisage future and more systematic co-operation. Follow-up is expected in the coming weeks.

• *South-east Europe*

In **Kosovo**, during the second week of May, two seminars were held for local judges and prosecutors on Articles 5 and 6 of the European Convention on Human Rights, focusing on the practical problems currently faced in Kosovo in relation to the implementation of these articles. A total of 72 judges participated over these four days, including minority judges.

For the first time, a seminar was also organised for international judges and prosecutors in Kosovo, treating similar subject-matter. Participants in this seminar, which took place on 11 May 2001, included legal officers of the UNMIK Department of Judicial Affairs as well as international judges and prosecutors. Consideration is being given to the organisation of further such exchanges.

In **Serbia** and **Montenegro**, between March and June 2001, a total of four training seminars on the ECHR were organised for the local judiciary in co-operation with local and international Human Rights NGOs, the Associations of Judges and Judicial training Institute.

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 with more than five years' experience are undergoing training on Articles 5 and 6 of the ECHR between January and June 2001. The trainings are being organised in co-operation with the School of Magistrates, with which further activities are geared to developing the human

rights curriculum for both initial trainees and in-service training.

During the week of 10-17 June 2001 a study visit was organised for 13 Albanian judges and prosecutors, the most active participants of the five training sessions held in Albania in the first half of the year 2001. This training was organised within the framework of the third Joint European Commission/Council of Europe Programme for Albania and allowed the participants *inter alia* to attend two hearings of the European Court of Human Rights and discuss in depth the cases heard by the Court on 12 and 14 June with the Senior Court lawyers.

A substantive training course on the ECHR for practising lawyers was held from 25 to 29 June 2001 in Durres, Albania. Five days of intensive training on the Convention was ended by a moot court competition. The course was co-organised by the European Centre of Albania, People's Advocate of Albania and the AIRE Centre.

In **Bulgaria**, in **"the former Yugoslav Republic of Macedonia"** and in **Moldova**, the Organisation has built strong relationships with the various bodies responsible for training judges and prosecutors. The objective pursued with our counterparts in 2000 was to have training on the ECHR carried out as part of a coherent programme, targeting specific groups and covering a series of articles, rather than as stand-alone events. Training activities in Bulgaria included, in co-operation 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. A seminar on Articles 5 and 6 of the ECHR was also organised in Stara Zagora on 23 and 24 June 2001. This seminar, co-organised with a local NGO, offered the opportunity for local judges, prosecutors and lawyers to get acquainted with the ECHR.

In "the former Yugoslav Republic of Macedonia", in co-operation with the Centre for Continuing Education (CCE), 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.

One or several similar training sessions have also been organised in **Romania** (in co-operation with the Ministry of Justice), in **Croatia** (in co-operation with the Croatian Legal Centre, and in co-operation with the Office of the Government Agent) and in **Turkey** (in co-operation with the Izmir Bar Association).

In June, the Directorate General of Human Rights and the Directorate General of Social Cohesion, in co-operation with the "European Roma Rights Centre" (ERRC), organised a three-day study session for seventeen participants involved in legal assistance to Roma/Gypsies. The three-day programme focused on concrete examples of how to use the Convention in defence pleadings in favour of Romani. These training activities, which have been organised since 1996, represent an excellent example of co-operation in the field of Roma activities between the Council of Europe and an NGO.

C. Ombudsmen

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 ombudsmen offices.

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

In the **Russian Federation**, two "strategy sessions" for the graduates of previous introductory workshops on the parliamentary ombudsman institutions were organised in March in Krasnoyarsk and in April in Sochi. The first Round Table of regional parliamentary ombudsmen of the Russian Federation on "The Russian Regional Ombudsman Institution and European Standards" took place in June in Saratov. The Human Rights Commissioner of the Russian Federation came to Strasbourg in June to discuss problems experienced by his office and possibilities for future co-operation.

- *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 complete list of activities implemented in the year 2000 and in the first half of 2001 under the Stability Pact Project on Ombudsman is accessible on http://www.humanrights.coe.int/aware/.

An informal steering group, led by the Council of Europe and consisting of the main contributing partner countries, institutions and organisations, meets regularly to co-ordinate the implementation of the individual activities comprising the project, and to provide guidance as to the priorities and overall direction of the project. The steering group also carries out regular reviews of the implementation of the project with a view to adapting and updating its individual compo-

nents, notably in the light of experience. The informal steering group last met on 20 March 2001.

In addition, on 16 and 17 May 2001 a Review Meeting of the Project took place in Strasbourg. The meeting brought together representatives of the relevant institutions, as well as the competent authorities from each country in south-east Europe and looked at the situation of ombudsman institutions inside that region. It also offered an opportunity to take stock of progress achieved so far in the implementation of the project, to assess the methodology and adapt this as necessary in order to best suit the beneficiary institutions' needs.

D. Death penalty

Abolition of the death penalty remains a priority for the Council of Europe and work is continuing to ensure that capital punishment is abolished throughout the Council of Europe member states. In this respect, a specific 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 to the European Convention on Human Rights. 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 programme hopes to generate considerable materials on individual target countries and stimulate debate within the various countries as to their criminal justice system.

In **Albania** an intensive awareness campaign was initiated in January with the conducting of an opinion poll which looks beyond the black and white issues of abolition and attempts to get a clearer idea of the concerns of people and opinion formers with regard to the criminal justice system. A number of information materials are being put together to serve as background for a series of thirty seminars throughout the country which will run 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.

Following the abolition of the death penalty in **Ukraine** in 2000, it was important to tackle the question of life imprisonment, which replaced the death penalty. This was done in June at a seminar organised in co-operation with the NGO *Donetsk Memorial*, which managed to gather a large number of staff of the Ukrainian prison administration, together with NGO and media representatives, lawyers and judges. European human rights standards for long-term prisoners were discussed with Council of Europe experts, who included a member of the Steering Group for the Reform of the Penitentiary System in Ukraine and a CPT member. A booklet containing the reports of the experts will be published and widely distributed *inter alia* to staff of the Ukrainian prison administration.

In **Belarus**, the Council of Europe organised for the first time the first of a series of three seminars on the abolition of death penalty. This seminar was jointly organised by the Minsk-based NGO, the Legal Initiative Organisation, on 11 May 2001 in Minsk. Participants were not only NGO and independent media representatives but representatives of the judiciary and the prison administration. A booklet containing the reports of the experts will be published and widely distributed in Belarus. It is hoped that it will constitute the launching of a wider campaign for the abolition of the death penalty in Belarus, the last European country which retains the death penalty not only in its law but also in its practice.

E. Documentation, awareness-raising and human rights education

An important element of raising public and professional awareness of the Council of Europe instruments is the translation and publishing of documentation in the languages of the new member states. Ensuring that the case-law of the European Court of Human Rights and pertinent commentaries are available in the local language remains an ongoing priority.

In **Armenia**, the first monograph containing commentaries on different articles of the ECHR was published in March by the Institute for Democracy and Human Rights in co-operation with HRCAD, with contributions of staff members of the Council of Europe and experts from both the Council of Europe and Armenia.

For **Albania**, a first volume of 44 key judgments on Articles 2, 3, 5, 6 and 7 has been published. Further publications include summaries of 35 judgments in Albanian, *Key Extracts*, the 2nd edition of the *Short Guide to the ECHR* and a monthly bulletin on the recent case-law with commentary on the cases provided by the AIRE Centre, a London-based NGO.

In **Belarus**, a seminar was organised in co-operation with the Belarussian Centre for Constitutionalism and Comparative Legal Studies, a Minsk-based NGO, on European human rights standards and their implementation in Belarus. The emphasis was made on freedom of expression in the context of free and fair elections. Relevant Council of Europe documents were distributed and a booklet containing the reports made by the experts will be published and distributed among *inter alia* representatives of independent media.

F. Police and human rights programme

Ann-Marie Orler was seconded by the Swedish Government to the "Police and Human Rights – Be-

yond 2000" programme as Programme Manager in April 2001. Her first task was to participate in a meeting with the OSCE in Belgrade on 7 May 2001 to discuss the reform of the Federal Republic of Yugoslavia police. As a result of this meeting, the OSCE and the Council of Europe have begun their co-operation in the drafting of an assessment report on the Federal Republic of Yugoslavia police. Further co-operation in the follow-up action to the assessment work is foreseen.

Two police and human rights training seminars were held for police officers in Georgia in April and May in co-operation with the Raoul Wallenberg Institute, whilst a conference focusing on the rights of police officers themselves was organised in Tirana, Albania in the last week of May. The first meeting of the European Platform for Police (formerly the Joint Informal Working Group) took place in the Netherlands in June, sponsored by the Dutch Police.

G. Publications

– *"Policing in a Democratic Society – Is your Police Service a Human Rights Champion?"*
Booklet completed by the Joint Informal Working Group in 2000 and published by the Austrian government in English, French and German. Now translated into Croatian, Dutch, Estonian, Latvian and Russian.

– *"Trainer's Supply Kit"*
A small stock of the Russian-language version was delivered to Strasbourg, and widespread dissemination of the materials began within the Russian Federation.

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

6. Steering Committee for Human Rights (CDDH)

Bearing in mind the decisions of the Ministers' Deputies, the CDDH devoted its 51st meeting (27 February-2 March 2001; see *Information Bulletin* No. 52) to the organisation of its work following the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000). In this respect, it entrusted a certain number of tasks to its Committees of Experts for the Development of Human Rights (DH-DEV) and for the Improvement of Procedures for the Protection of Human Rights (DH-PR), as well as to its Group of specialists on Access to Official Information (DH-S-AC).

- **Committee of Experts for the Development of Human Rights (DH-DEV)**

At its 27th meeting (20-22 June 2001), the DH-DEV started drafting work on a new protocol to the European Convention on Human Rights excluding the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war. It also prepared a draft explanatory report. It is expected that the CDDH will be able to examine these texts in November 2001 with a view to their possible adoption and subsequent transmission to the Committee of Ministers.

At its next meeting (10-12 October 2001), the DH-DEV will address, in particular, the issues related to the protection of human rights during armed conflict as well as during internal disturbances and tensions, including as a result of terrorist acts. The objective will be to examine the current legal situation, to identify any possible shortcomings in the protection of the individual, and formulate proposals to the Committee of Ministers on how to remedy them.

- **Committee of Experts for the Improvement of Procedures for the Protection of Human Rights (DH-PR)**

Keeping in mind the fact that the control machinery set up by the Convention is of a subsidiary nature, which presupposes that the rights guaranteed by the Convention should, first and foremost, be fully protected at national level and implemented by national authorities, in particular the courts, as highlighted by the Ministerial Conference, the DH-PR began work at its 49th meeting (25-27 April 2001) with the aim of helping member states to improve the implementation of the Convention in their domestic law and practice. This work concerns, in particular, the need to ensure that the exercise of rights and freedoms guaranteed by the Convention benefits from an effective remedy; systematic screening of draft legislation and administative practice in the light of the Convention, to ensure that they are compatible with the latter's standards; the possibility of re-examination or re-opening of proceedings following judgments of the Court; a better dissemination at national level of case-law of the Court.

Also in the context of the follow-up to the Ministerial Conference, the DH-PR held an exchange of views with the CDDH Reflection Group on the Reinforcement of the Human Rights Protection Mechanism (see below). For its part, the DH-PR's work concentrated on improving the supervision by the Committee of Ministers of the execution of judgements of the Court, in particular the possible responses in the event of slowness or negligence in giving effect to a judgment or even non-execution thereof. During the discussions, it examined in particular the various issues raised by the Parliamentary Assembly in its Recommendation 1477 (2000) on the Execution of Judgments of the European Court of Human Rights.

- **Reflection Group on the Reinforcement of the Human Rights Protection Mechanism (CDDH-GR)**

The Reflection Group, set up by the Steering Committee for Human Rights (CDDH) following the Rome European Ministerial Conference on Human Rights (November 2000), met three times during the spring (1 March, 23-25 April, 5-8 June 2001). Following its discussions, the Reflection Group agreed that reform was essential in order to lighten the current workload of the Registry and the Court, particularly at the level of new applications and the preparation of case-files. At this stage, its proposals are mainly limited to those which would not require any amendments to the European Convention on Human Rights and which could, therefore, be implemented relatively quickly. It nevertheless felt that structural reforms and reforms of the machinery itself would have to be considered, reforms which, for their part, would require the adoption of amendments to the Convention. The Activity Report of the Group is to be forwarded the Steering Committee for Human Rights (CDDH) and to the Evaluation Group responsible for examining possible means of guaranteeing the effectiveness of the European Court of Human Rights, set up by the Ministers' Deputies last February.

- **Group of Specialists on Access to Official Information (DH-S-AC)**

The Ministerial Conference recalled that transparency within public administrations and guaranteeing the right of access of the public to official information are requirements of a pluralistic democratic society. In this respect, it highlighted the importance of drawing up, within the Council of Europe, a number of principles which could constitute a minimum basis for access to official information, taking into account the new environment created by information and communication technology. The Group of Specialists set up by the CDDH to examine these issues continued, at its 7th meeting (28-30 March 2001) the preparation of a series of basic principles on access to official information, in the form of a draft recommendation together with an explanatory memorandum. These texts should be examined by the CDDH in November 2001, with a view to their possible adoption and subsequent transmission to the Committee of Ministers.

D. Commissioner for Human Rights

In pursuance of his mandate to promote the effective observance of human rights in member states, to identify shortcomings in their law and practice and to provide advice and information on the protection of human rights, the Commissioner conducted three official visits between April and June 2001. The reports and recommendations will be made public following their presentation to the Committee of Ministers and the Parliamentary Assembly.

- **Visits**

Norway – 3-4 April 2001

The main aims of this visit were to establish contacts with the Norwegian authorities, including the Ombudsman, and with representatives of its civil society via NGOs and other institutions, so as to conduct an initial appraisal of the human rights situation in Norway both in terms of its legislation and the application of this legislation in practice. The Commissioner's itinerary included visits to the Oslo and Bredtveit prisons.

Slovakia – 14-16 May 2001

During his visit, the Commissioner met with the Slovak authorities and representatives of Slovak civil society, in order to discuss the main problems arising in relation to the respect for human rights. The Commissioner also travelled to Košice where he met with representatives of the Roma and Gypsy communities.

Finland – 5-8 June 2001

Having met with representatives of NGOs, the ombudsmen, several ministers of state and the President of Finland, Mrs Halonen, to discuss the human rights situation in Finland, the Commissioner for Human Rights travelled to Turku, where he visited the Kakola prison and participated in a seminar on "Rethinking and developing strategies against racism and Ethnic Intolerance" organised by the Åbo Academy in preparation for the World Annual Conference Against Racism.

- **Meetings and seminars organised by the Commissioner for Human Rights**

The Commissioner's mandate requires that he assist and co-operate with existing human rights structures in member states and, in particular, with national ombudsmen and similar institutions. The Commissioner is also concerned to work in close co-operation with non-governmental organisations, on whose information the Commissioner is invited by his mandate to act.

Meeting of the eastern European ombudsmen (Warsaw, 28-29 May 2001)

Three subjects of common concern were discussed. The first concerned the situation regarding the Roma/Gypsies. It was acknowledged that the ombudsmen had very little contact with the Roma/Gypsy communities and agreed that it would be profitable if the Commissioner could organise a round table meeting uniting the ombudsmen with active representatives of the minorities concerned. This meeting has since been scheduled to take place in Zurich in November 2001. Secondly, the ombudsmen expressed concern at the lack of expertise in their offices in the procedure and jurisprudence of the European Court of Human Rights. It was agreed that the Commissioner should organise a meeting between representatives of the ombudsmen's offices and judges and experts from the European Court of Human Rights. This meeting has been scheduled to take place in Zurich at the same time. Thirdly, transit and illegal immigration was also discussed as a topic of common concern; experiences were exchanged and ways of improving the integration of legal immigrants and the respect for the rights of those entering illegally were considered.

Seminar with NGOs on "Human rights standards applying to the holding of aliens wishing to enter a Council of Europe member state and to the enforcement of expulsion orders" (Strasbourg, 20-22 June 2001)

This seminar, organised by the office of the Commissioner for Human Rights, aimed to examine the human rights protection standards that apply when foreigners held at the border are refused entry or being expelled from a country that ratified the European Convention on Human Rights. The participants – representatives of NGOs, international organisations and government experts – looked at the human rights guarantees provided under the Convention and other

related documents of the Council of Europe. Attention focused on the rights of foreigners held at border points while waiting a member state's decision either authorising or refusing their admission to its territory, the rights of foreigners waiting for the enforcement of an expulsion order and the conditions and modalities of their forced return. The conclusions of the seminar will be published shortly.

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

III. Publications

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

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Human rights in general

Ethical eye: the human genome

J.F. Mattei, P. Billings, J. Dausset, M. Furness, K. Pollock, B.M. Knoppers, J. Reich 92-871-4568-7

Scientific and technological developments are rapidly transforming the world in which we live. With progress and change, however, the human race is faced with new dilemmas. Hidden behind the jargon, to what extent are we aware of the impact these advances are having on our lives?

Starting with the *human genome*, Council of Europe Publishing's new thought-provoking *Ethical eye* series looks at the crucial issues behind some of these key developments.

In this volume, ten international experts look at the topic from different angles, providing factual information about what the human genome is, how genomic research is affecting industry, how it is being used to improve medicine, the ethical implications of this research, what this research tells us about about our origins and our relations to animals, and whether the genome should be protected against commercial use.

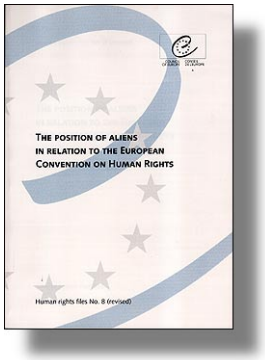
This reference book is written with a wide readership in mind, and will be of interest both for the specialist and the non-specialist.

The position of aliens in relation to the European Convention on Human Rights

Hélène Lambert, Human Rights Files No. 8, revised

92-871-4618-7

The law of the European Convention on Human Rights relating to aliens has developed significantly over the last years. In 20 years, the number of contracting States has doubled and the scope of rights and freedoms guaranteed under the Convention has broadened with the adoption of new protocols. Protocol No. 11, in force since 1 November 1998, has reformed the Convention control bodies and mechanisms in order to accommodate the increasing caseload. Protocol No. 12, opened for signature on November 2000, will enlarge, when it enters into force, the non-discrimination clause to «any rights set forth by law».



At the same time, important demographic changes have taken place. The growing integration of the states of the European Union has created greater mobility for its citizens; and political and economic pressures have given rise to an increasing number of refugees and asylum-seekers from Europe and beyond.

It is against this backdrop that the *Position of Aliens in Relation to the Convention* is re-examined in a second edition.

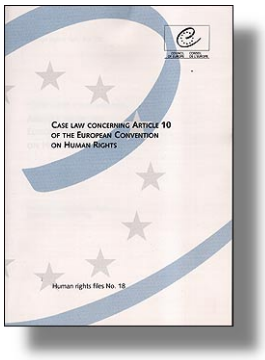
Case law concerning Article 10 of the European Convention on Human Rights

Media Division, DG II, Human rights files No. 18

92-871-4647-0

The European Court of Human Rights has always defended the idea that freedom of expression has an essential role to play in a democratic society, helping to foster the development of an open, tolerant society in which human rights are respected. Freedom of expression is not absolute and unconditional, however; there are certain limits which must be respected.

How can racist, xenophobic propaganda be proscribed without trespassing on individual freedom of expression? How can a suspect's right to be presumed innocent be protected without placing restrictions on the public's right to information? Where should we draw the line concerning the criticism of politicians by the media?



It is by answering these and many similar questions over a period of more than forty years that the European Court of Human Rights has developed its case-law in respect of Article 10, presented in summary form in this Human rights file.

The booklet contains a useful index of applications and judgments referred to.

Russian version of the Convention – starting points for teachers

Already published in English, French, German and Italian, this publication is now available in Russian and will, shortly, be produced in other languages, particularly from eastern Europe. It exists in English, French, German and Italian. 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. Available free of charge from Point i, point_i@coe.int

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. 28 (March 2001)
No. 29 (April 2001)
No. 30 (May 2001)
No. 31 (June 2001)

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.

At the conclusion of each visit carried out by the CPT delegation in the different States a report is prepared. It constitutes the starting point for a dialogue with the state concerned, with the aim of finding the approach and methods most likely to result in acceptable standards for the treatment of persons deprived of their freedom. The state concerned can ask for the Committee's report to be published, together with its comments. To date 73 reports have been published in this way. If the state does not collaborate, or refuses to act on the Committee's recommendations, the CPT may exceptionally decide to make a public declaration.

The reports and responses of the governments are generally published in one language only, English [EN] *or French* [FR].

Preliminary observations

visit to Turkey in December 2000 and January 2001

Following a request from the Turkish authorities, a delegation of the CPT arrived in Turkey, in order to contribute to efforts under way aimed at finding a solution capable of bringing the hunger strikes to an end in prisons. The delegation forwarded preliminary observations to the Turkish authorities which are being published; they are set out in a 6-page letter, dated 29 January 2001, appended to this press release (http://www.cpt.coe.int/en/press/20010316en.htm). The CPT will draw up a full report on the facts found during the visit.

Report and responses of the Hungarian Government

visit to Hungary in 1999

CPT/Inf (2001) 2 [EN] and CPT/Inf (2001) 3 [EN]

Report and responses of the Croatian Government

visit to Croatia in 1998

CPT/Inf (2001) 4 [EN] and CPT/Inf (2001) 5 [EN]

Report and responses of the United Kingdom Government

visit to Northern Ireland in 1999

CPT/Inf (2001) 6 [EN] and CPT/Inf (2001) 7 [EN]

Report and responses of the Austrian Government

visit to Austria in 1999

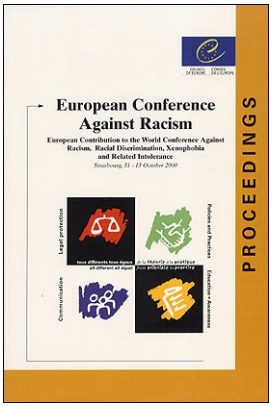
CPT/Inf (2001) 8 [FR] and CPT/Inf (2001) 9 [EN]

ECRI

For further information: http://www.ecri.coe.int/

Proceedings of the European Conference against Racism

European contribution to the world conference against racism, racial discrimination, xenophobia and related intolerance – Strasbourg, 11-13 October 2000



In a wide-ranging compendium, this collection of proceedings presents every aspect of the conference: the key documents (political declaration, general conclusions, general report and reports of the working groups), followed by the contributions of around fifty notable participants from member states, observer states and non-governmental organisations.

Annual report on ECRI's activities covering the period from 1 January to 31 December 2000

This report contains a detailed description of ECRI's activities in the course of the year 2000, as well as a brief analysis of the main trends which it has encountered in the context of the fight against racism, xenophobia, anti-Semitism and intolerance in Europe.

CRI (2001) 20

Country-by-country approach

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States and makes suggestions and proposals as to how to tackle the problems identified.

At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.

Second report on Albania CRI (2001) 2

Issues of ethnic discrimination are not recognised as a primary concern, and thus there is little awareness concerning such issues. Negative prejudices and stereotypes exist particularly with respect

to Roma/Gypsies. The widespread corruption generally recognised to be present in public institutions may also indirectly discriminate against those who do not have the necessary connections or means in order to have access to public services, basic facilities or employment. There is an acute lack of information about the situation and the number of the different minority groups living in Albania.

Second report on Austria CRI (2000) 3

Racism, xenophobia and discrimination affect particularly immigrants, asylum-seekers and refugees, but also Austrian nationals of immigrant background. Most of the existing legal provisions aimed at combating racism and discrimination do not appear to provide for effective protection against these phenomena. Of deep concern is the use of racist and xenophobic propaganda in politics. The behaviour of the police *vis-à-vis* members of minority groups is also of special concern.

Second report on Denmark CRI (2001) 4

The prevailing climate of opinion concerning individuals of foreign background and the impact and use of xenophobic propaganda in politics are of deep concern. Discrimination, particularly in the labour market, but also in other areas, such as the housing market and in access to public places, is also of concern. People perceived to be Muslims appear to be particularly vulnerable to these phenomena. Most of the existing legal provisions aimed at combating racism and discrimination do not appear to provide effective protection.

Second report on "the former Yugoslav Republic of Macedonia" CRI (2001) 5

"The former Yugoslav Republic of Macedonia" is still a society in which the issues of discrimination and intolerance are not adequately recognised and confronted. Different ethnic communities often have limited contact with each other and their relations are strained by negative stereotypes and mistrust. Furthermore, members of minority groups do not participate fully in public institutions at all levels of society. There is little concrete information available about manifestations of racism and discrimination, which in turn means that specific measures to combat these phenomena are often lacking in various fields.

Second report on the United Kingdom CRI (2001) 6

Problems of xenophobia, racism and discrimination persist and are particularly acute *vis-à-vis* asylum-seekers and refugees. This is reflected in the xenophobic and intolerant coverage of these groups of persons in the media, but also in the tone of the discourse resorted to by politicians in support of the adoption and enforcement of increasingly restrictive asylum and immigration laws. Racist prejudice in the police continues to constitute an element for concern. Criminal and civil law provisions are not always effective in countering racist, xenophobic or discriminatory behaviour.

Second report on Croatia CRI (2001) 34

Problems of discrimination and intolerance persist in many key fields of life, particularly concerning Serbs and Roma/Gypsy communities. Efforts at reconciliation and confidence-building have been insufficient on the part of all concerned parties. The situation is exacerbated by the generally difficult economic climate and the need to reconstruct the ruined infrastructure of the territories directly affected by the war.

Second report on Cyprus CRI (2001) 35

Immigrants appear to be particularly exposed to phenomena of racism, xenophobia and discrimination. Of serious concern are reports of use of excessive force by the police against aliens who enter or stay in Cyprus illegally.

Second report on Germany CRI (2001) 36

The existing legal framework and policy measures have not proven to be sufficient to solve the problems of racism, xenophobia, anti-Semitism and intolerance. Some issues of deep concern are: incidents of racially motivated violence; insufficience of measures of integration; the situation of and attitudes towards those who are considered as "foreigners".

Second report on Turkey CRI (2001) 37

The situation of immigrants without legal status and of asylum-seekers is of particular concern, notably the treatment of these persons by police and border control officials. Of concern are also the serious limitations to the right of members of all minority groups publicly to express and cultivate their ethnic, cultural, linguistic or religious background.

Social questions

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

European Committee of Social Rights – Eighth report on certain provisions which have not been accepted

European Committee of Social Rights – Addendum to Conclusions XV-1 (Germany) (2001)

92-871-4613-6

European Committee of Social Rights – Addendum to Conclusions XV-2

92-871-4682-9

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

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

Equality between women and men

For further information:http://www.humanrights.coe.int/equality/

Media

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

Police

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

Human Rights Co-operation and Awareness programmes

For further information: http://www.humanrights.coe.int/aware

Commissioner for Human Rights

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

Appendix

European Committee for the Prevention of Torture (CPT)

Resolution 1248 (2001) adopted by the Council of Europe Parliamentary Assembly on 23 May 2001

European Committee for the Prevention of Torture: composition

1. The Assembly recalls its Recommendation 1323 (1997), in which it stressed the need for a more balanced composition of the Committee for the Prevention of Torture with regard to professional background, gender and age, and urged that emphasis be placed on the criterion of members' availability.

2. It also stressed the need for rapid entry into force of Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which provides for the orderly renewal of CPT members and the possibility for them to be re-elected twice.

3. It regrets that its recommendations have not been acted upon and that for want of a single ratification – that of Ukraine – neither Protocol No. 1, which opens the convention to non-member states, nor Protocol No. 2 has yet entered into force.

4. The current composition of the CPT is not balanced, either from the point of view of the representation of women, or from that of the different professional backgrounds required of its members.

5. The Assembly acknowledges that it is partly responsible in that national delegations propose candidates to the Parliamentary Assembly and the Assembly Bureau is charged with forwarding candidacies to the Committee of Ministers, which gives it the opportunity of exercising a certain amount of control.

6. In practice, however, the Bureau is unable to examine candidatures itself in order to ensure their conformity with the criteria set by the Assembly. It ought to delegate this task to its Committee on Legal Affairs and Human Rights.

7. Accordingly, the Assembly:

i. earnestly requests national delegations to the Assembly to verify that the lists of CPT candidates which they supply are in conformity with the requirements of Recommendation 1323 (1997);

ii. instructs its Committee on Legal Affairs and Human Rights to examine lists of candidates supplied by national delegations in order to ensure that they meet the criteria established in Recommendation 1323 (1997) and, where this is not the case, to recommend that the Bureau request a fresh list;

iii. instructs the same committee to draw up a recommendation to the Assembly Bureau, listing candidates in order of preference.

Recommendation 1517 (2001) adopted by the Conseil of Europe Parliamentary Assembly on 23 May 2001

European Committee for the Prevention of Torture (CPT): working methods

1. The Assembly deems it necessary to assess the machinery set up by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, ETS No. 126, which has now been in operation for more than ten years.

2. This non-judicial, preventive machinery is based on unexpected visits by members of the European Committee for the Prevention of Torture (CPT) to all places where people are deprived of their liberty following a decision by a public authority. While it has proved effective, it is facing a considerable increase in work with the growth of the Organisation during the last ten years from twenty-five to forty-three member states.

3. This situation will be exacerbated still further by the entry into force of Protocol No. 1 to the convention, which opens it to non-member states of the Council of Europe.

4. The smooth operation of the entire machinery is threatened by this situation, which is causing visits to decline in frequency for want of adequate human and financial resources. Therefore, ongoing dialogue with member states is indispensable to the system's effectiveness.

5. The CPT has sought to adapt itself by reducing the size of delegations and conducting shorter, more targeted visits, particularly in cases of urgency. It has also set up a working group to look into its working methods, which should make an interim report in July 2001.

6. The CPT also suffers from the confidentiality rule imposed upon it by the convention. While observance of this rule is necessary for effective co-operation with member states, it is an obstacle to publicity about the CPT's work and hinders co-operation with NGOs. In addition, the fact that the CPT does not publish information about very serious situations means that it risks being seen as an accomplice of governments.

7. The Assembly strongly urges the CPT to increase its co-operation with NGOs known for their activity in combating torture and inhuman or degrading treatment or punishment.

8. Although they are made public, its annual reports are not distributed widely enough and thus have no adequate effect on national governments.

9. The Assembly therefore decides to hold periodic debates in future on the work of the CPT, drawing the attention of national delegations to its annual reports.

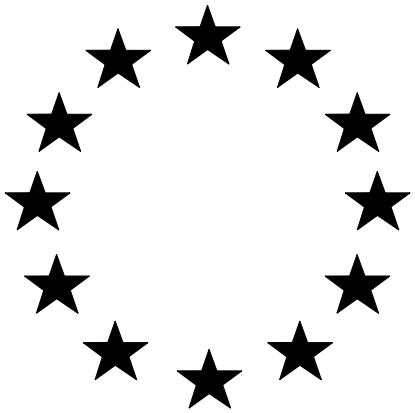
10. Accordingly, the Assembly recommends that the Committee of Ministers:

i. increase the CPT's human and budgetary resources so that it may adequately perform the duties required of it;

ii. encourage the CPT to review its working methods, in particular by conducting a greater number of shorter, more targeted visits and reducing the size of delegations;

iii. invite the states parties to the convention to allow the CPT more openness and less strict confidentiality in relation to its work.

1989 **Finland**
1949 **Sweden**
1949 **Norway**
1949 **Denmark**
1950 **Germany**
1993 **Czech Republic**
1956 **Austria**
1950 **Iceland**
1949 **Netherlands**
1949 **Belgium**
1949 **Luxembourg**
1949 **Ireland**
1949 **United Kingdom**
1949 **France**
1963 **Switzerland**
1978 **Liechtenstein**
1994 **Andorra**
1977 **Spain**
1976 **Portugal**
1949 **Italy**
1988 **San Marino**
1965 **Malta**



Russia 1996
Estonia 1993
Latvia 1995
Lithuania 1993
Poland 1991
Ukraine 1995
Slovakia 1993
Moldova 1995
Romania 1993
Georgia 1999
Hungary 1990
Bulgaria 1992
Azerbaijan 2001
Armenia 2001
Turkey 1950
Cyprus 1961
Greece 1949
"The former Yugoslav Republic of Macedonia" 1995
Albania 1995
Croatia 1996
Slovenia 1993

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