

Human rights information bulletin

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Bon voyage,
human rights!



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Human rights institutes

The regular report on the activities of human rights institutes is published as a supplement to the *Bulletin*

Cover picture: "Human rights on board"

Directorate General of Human Rights' staff member Denis Bribosia participated in the 2nd Trans-Atlantic Rowing Race between the Canary Islands and Barbados aboard a two-man rowing boat named *Embarquons les Droits de l'Homme*, along with fellow rower Gregory Loret.

They set off from Tenerife on 7 October 2001 carrying with them dozens of human rights messages written by schoolchildren. 74 days later they landed their messages in Port Saint Charles after covering 5000 km of ocean.

Marking their achievement Lord Russell-Johnston, President of the Parliamentary Assembly, said:

"The successful conclusion of this remarkable initiative, coming little more than a week after International Human Rights Day, shows that each of us can contribute, in whatever way we are able, to the promotion of human rights beyond both frontiers and oceans."

A day-by-day account of their voyage and of their project bringing together the worlds of sporting adventure and human rights can be found at <http://www.embarquonsdh.com>



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News of the Convention

A new ratification

Protocol No. 7 and Ireland

Ireland ratified Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms on 3 August 2001.

New reservations and declarations

Convention and Germany

Withdrawal of a reservation contained in a Note Verbale from the Permanent Representation of the Federal Republic of Germany, dated 1 October 2001, registered at the Secretariat General on 5 October 2001 – Or. Engl.

The Federal Republic of Germany withdraws the following reservation contained in the instrument of ratification deposited on 5 December 1952:

In conformity with Article 64 of the Convention [Article 57 since the entry into force of Protocol No. 11], the German Federal Republic makes the reservation that it will only apply the provisions of Article 7 paragraph 2 of the Convention within the limits of Article 103 paragraph 2 of the Basic Law of the German Federal Republic. This provides that

any act is only punishable if it was so by law before the offence was committed.

Protocol No. 1 and United Kingdom

Declaration and reservation contained in a letter from the Permanent Representative of the United Kingdom, dated 9 October 2001, registered at the Secretariat General on 10 October 2001 – Or. Engl.

In accordance with Article 4 of the Protocol, the Government of the United Kingdom declares that the Protocol shall apply to the Isle of Man being a territory for whose international relations the Government of the United Kingdom is responsible, subject to the following reservation.

In view of certain provisions of the Education Act 2001 (of Tynwald) or, until the coming into operation of that Act, the Isle of Man Education Act 1949, the principle affirmed in the second sentence of Article 2 is accepted by the United Kingdom only so far as it is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure in the Isle of Man.

For further information see the “Simplified chart of signatures and ratifications of European human rights treaties”, p. 38, or the Treaty Office’s web site.

Internet site: <http://conventions.coe.int/>



Introduction

Between 1 July and 31 October 2001, the Court dealt with 3868 (3982) cases:

- 2959 (3038) applications declared inadmissible
- 78 applications struck off
- 155 (158) applications declared admissible
- 343 (353) applications communicated to governments
- 333 (355) judgments delivered (Provisional figures)

The difference between the first figure and the figure in parentheses is due to the fact that a judgment or decision may concern more than one application.

Owing to the large number of judgments delivered by the Court, only those delivered by the Grand Chamber or chamber judgments presenting a particular importance with regard to the Court's case-law or to the defending state are presented. They are followed by a table which gives succinct information about the judgments having given rise to a press release. The list of the judgments adopted and these of the key decisions, together with the full text, can be found on the Internet (<http://www.echr.coe.int>).

The summaries have been prepared for the purposes of the present Bulletin and are not binding on the supervisory organs of the European Convention on Human Rights.

Judgments of the Grand Chamber

Prince Hans-Adam II of Liechtenstein v. Germany

Judgment of 12 July 2001

Alleged violations of: Articles 6 § 1 (access to court and fairness of the proceedings), 14

(prohibition of discrimination), 1 of Protocol No. 1 (protection of property)

Principal facts and complaints

The applicant denounced the decisions of the German courts to declare inadmissible his claim for restitution of a painting, which had been owned by his father and confiscated in 1946 while it was on Czechoslovak territory, under a Presidential Decree. When, in 1991, the Municipality of Cologne received the painting on loan from the Czech Republic, the applicant instituted court proceedings in order to regain possession of it. The German courts declared his application inadmissible on the ground that they did not have jurisdiction. The decision was made under the Convention on the Settlement of Matters arising out of the War and the Occupation, signed in 1952 and amended in 1954. The Federal Constitutional Court refused to entertain the applicant's constitutional complaint on the grounds, among other things, that the exclusion of jurisdiction did not amount to a violation of the right to property, as the Settlement Convention as a whole served to settle matters dating back to a time before the entry into force of the German Basic Law. The Court also confirmed that the provisions invoked by the German courts had not been set aside by the Treaty on the Final Settlement with respect to Germany. The painting was subsequently returned to the Czech Republic.

The applicant alleged violations of his right of access to court and to fair proceedings and of his right to property, taken alone and together with the prohibition of discrimination.

Decision of the Court

– Article 6 § 1

In the Court's view, the exclusion of German jurisdiction under the 1952 Convention is a consequence of the particular status of this country under public international law after the Second World War. It is only as a result of the 1954 Paris Agreements with regard to the Federal Republic of Germany and the Treaty on the Final Settlement with respect to Germany of 1990 that the Federal Republic obtained the authority of a sovereign State over its internal and external affairs for a united Germany. Moreover, the interpretation by the courts of the Settlement Convention was not inconsistent with previous German case-law nor erroneous or such as to reach arbitrary conclusions.

The Court further concluded that the applicant's interest in bringing litigation in the

Federal Republic of Germany was not sufficient to outweigh the vital public interests in regaining sovereignty and unifying Germany.

Accordingly, it estimated that there was no breach of the applicant's right of access to a court.

Regarding the fairness of the Federal Constitutional Court proceedings, it found that the applicant had the benefit of adversarial proceedings and was able to submit the arguments he considered relevant, and did not see indication of unfairness in the manner in which the proceedings at issue were conducted.

– Article 1 of Protocol No. 1

Considering that the applicant as his father's heir could not, for the purpose of this Article, be deemed to have retained a title to property nor a claim to restitution against the Federal Republic of Germany amounting to a "legitimate expectation", the Court concluded that there had been no interference with the applicant's possessions.

– Article 14

As a consequence of the finding of non-violation of the protection of property, the Court considered that this article did not apply to the present case.

K. and T. v. Finland Judgment of 12 July 2001

Alleged violations of: Articles 8 (right to respect for family life) and 13 (right to an effective remedy)

Principal facts and complaints

The application was brought by a mother and her cohabitant, Finnish nationals. The applicant mother's second and third children, a boy and a girl, were placed in public care in June 1993 on account of her unstable mental health and long-standing family difficulties. The second child, who had been voluntarily placed at the children's home, was placed in public care and the third child – of whom one applicant is the father – was, the day she was born, without prior consultation of the parents. The mother's unsupervised access to the children was prohibited. In July 1993 the emergency care orders were replaced by normal care orders and the restriction on visiting was extended. In 1994 the children were placed in a foster home 120 km away from the applicants, and the applicants' access to them was limited to one monthly visit. K. and T., who now have an

other child, who is not in care, made various unsuccessful appeals against their access restrictions.

They complained of a violation of their right to respect for their family life and of not having had a right to an effective remedy.

In a chamber judgment of 27 April 2000, the Court held, unanimously, that there had been a violation of Article 8 and no violation of Article 13 and awarded the applicants 40 000 Finnish marks each for non-pecuniary damage and a sum for legal costs and expenses. The Government of Finland, under Article 43 § 1 of the Convention, requested that the case be referred to the Grand Chamber, arguing that there was no violation of Article 8, a request which was accepted and gave rise to the present judgment. This is the first time the Court has delivered a Grand Chamber judgment following a Chamber judgment in a case.

Decision of the Court

The Court examined the compliance of each of the measures with Article 8:

– The emergency care orders

Concerning the care order of the applicants' third child, the Court believes that there need to be extraordinarily compelling reasons – which had not been shown to exist – before a baby may be physically removed from the care of its mother, against her will, immediately after birth. The authorities had several months to find a less drastic measure. While there may have been a “necessity” to take some precautionary measures to protect the child, the interference in the applicants' family life could not be regarded as having been “necessary” in a democratic society. On the contrary, the emergency order in respect of the second child, who was already voluntarily placed in a children's home, was not capable of having the same impact on the applicants' family life.

– The normal care orders

were not implemented, for the Court, in a particularly harsh or exceptional way, and protected the interests of the applicants, who were properly involved in the decision-making process.

– The alleged failure to take proper steps to reunite the family

reveal an exceptionally firm negative attitude of the authorities, which hindered rather than helped a possible family reunification.

– The access restrictions at the time of the delivery of the Court's judgement:

Regarding the children's situation during the period after the delivery of the Court's initial judgment, the Court finds that the authori-

ties' assessment of the necessity of access restrictions did not fall foul of Article 8 § 2.

The Grand Chamber upheld the Chamber judgment concerning non-violation of Article 13 and the award of just satisfaction for non-pecuniary damage.

Ferrazzini v. Italy **Judgment of 12 July 2001**

Alleged violations of: Articles 6 (right to a fair trial) and 14 (prohibition of discrimination)

Principal facts and complaints

The applicant and another person had transferred land, property and a sum of money to a limited liability company whose object was organising farm holidays for tourists. The company applied to the tax authorities for a reduction in the applicable rate of certain taxes payable on the above-mentioned transfer of property, which it deemed applicable, and paid the sum it considered due. In 1987, the tax authorities served a supplementary tax assessment on the applicant on the ground that the property transferred to the company had been incorrectly valued, and two supplementary tax assessments on the ground that the company was ineligible for the reduced rate of tax to which it had referred. The applicant's appeal for the first supplementary tax assessment was struck out of the list in 1988, and, for the two others, the applications were still pending on October 2000.

The applicant complained that the length of the proceedings had exceeded a “reasonable time” and that he had been “persecuted by the Italian courts”.

Decision of the Court *– Article 6 § 1*

The Court reviewed whether, in the light of changed attitudes in society as to the legal protection that fell to be accorded to individuals in their relations with the State, the scope of Article 6 § 1 should not be extended to cover disputes between citizens and public authorities as to the lawfulness under domestic law of the tax authorities' decisions. It considered that tax matters still form part of the hard core of public-authority prerogatives, with the public nature of the relationship between the taxpayer and the tax authority remaining predominant. Despite the pecuniary effects which tax disputes necessarily produce for the taxpayer, they fall outside the scope of civil rights and obligations. Accordingly, Article 6 § 1 does not apply under its “civil” head to tax proceedings.

– Article 14:

Since the complaint had not been substantiated, it had to be dismissed as manifestly ill-founded.

Malhous v. the Czech Republic **Judgment of 12 July 2001**

Alleged violation of: Article 6 (right to a fair trial)

Principal facts and complaints

In June 1949, under the Czechoslovak New Land Reform Act No. 46/1948, the Czech authorities had expropriated plots of agricultural land owned by the applicant's father, who never received compensation. In 1957, the applicant inherited his father's estate. On 24 June 1991, Act No. 229/1991 relating to land ownership came into force. It provided that under certain conditions property confiscated under that Act without compensation could be returned to its former owners. The applicant instituted administrative and judicial proceedings to recover the land, but, in accordance with the 1991 law, only the land in the State's possession was returned to him and not the other plots of land which had already been assigned to individuals. These latest could only allow to the assignment of other equivalent property or financial compensation. Restitution agreements were concluded between the applicant and two legal persons, but they were not approved by the land office. The applicant lodged appeals with the Municipal Court, then before the Constitutional Court, which were rejected. He died after the lodging of the application, but nevertheless, his lawyer introduced a request for compensation through the assignment of other plots of land, which is still pending.

The applicant had complained that he did not have a public hearing before an independent and impartial tribunal in the restitution proceedings in issue.

Decision of the Court

The Court noted that the only hearing held in the case took place before a land office, which cannot be considered as an independent court as it is charged with carrying out local state administration under the control of the Government. In any event, the hearing before this administrative authority was not public. None of the two jurisdictions to which the applicant appealed held a public hearing. The municipal court, which could have ruled on whether the facts had been correctly established, only concluded that the conditions for dispensing with a hearing were met. As to the proceedings before the Constitutional Court, limited to the examination of questions of constitutionality, it had not involved a direct and full determination of the applicant's civil rights in the restitution proceedings. A public hearing in those proceedings could not, therefore, have remedied the lack of a hearing at the decisive stage of the proceedings where the merits of the applicant's restitution claims were determined.

The Court did not award just satisfaction, holding that it could not speculate as to the outcome of the restitution proceedings,



had a public hearing taken place before the national courts.

Selected chamber judgments of the Court

Phillips v. the United Kingdom

Judgment of 5 July 2001

Alleged violations and findings of the Court:

- Article 6 § 1 (right to a fair trial): no violation
- Article 6 § 2 (presumption of innocence): not applicable
- Article 1 of Protocol No. 1 (protection of property): no violation

Convicted of being involved in drugs trafficking, the applicant had applied to him a provision of the Drug Trafficking Act 1994, which empowers a court to assume that all property held by a person convicted of a drug-trafficking offence within the preceding six years represented the proceeds of drug trafficking. On this basis, the applicant was assessed to have received, as the proceeds of drug trafficking, 91 400 pounds sterling, and a confiscation order was made for this amount. If the applicant failed to pay, he was to serve an extra two years' imprisonment, consecutive to the nine-year term. The applicant was refused leave to appeal against conviction and sentence.

He complained that his right to presumption of innocence had been violated, and that the confiscation order had infringed his right to protection of his property.

Erdem v. Germany

Judgment of 5 July 2001

Alleged violations and findings of the Court:

- Article 5 § 3 (right to be brought promptly before a judge): violation
- Article 6 § 2 (presumption of innocence): not considered separately in view of the preceding finding
- Article 8 (right to respect for correspondence): no violation

The applicant, Erdem, a Turkish national who had had refugee status in France, had been arrested on the German border on suspicion of being a member of a terrorist organisation and falsifying documents. He was placed in detention on remand and kept in detention prior to and during the trial of 18 Kurdistan Workers' Party (PKK) officials – including himself – which lasted from October 1989 until March 1994, for, among other offences, eleven murders and six counts of unlawful deprivation of liberty. During his detention, the applicant's correspondence with his lawyer was monitored. At the end of the trial, the Higher Regional Court ruled that the applicant – whose true name was not Erdem – was one of the founders of the PKK and a former member of the its Executive Committee and had built up PKK units in Lebanon and Syria. He was sen-

tenced to six years' imprisonment for being a member of a terrorist organisation.

The applicant complained of the length of his detention on remand – 5 years and 11 months – and of the interception of his correspondence with his lawyer.

Price v. the United Kingdom

Judgment of 10 July 2001

Alleged violations and findings of the Court:

- Article 3 (prohibition of degrading treatment): violation

The applicant, four-limb deficient and suffering from problems with her kidneys, was sentenced to prison for seven days for contempt of court, as she had refused, in the course of civil proceedings, to answer certain questions concerning her financial position. Before it was possible to take her to a women's prison, she spent the first night in a police station, in a cell which was not adapted for a disabled person. She could not use the bed nor the emergency buttons and light switches, and suffered from cold. In the women's prison, she could not get in her bed nor use the toilet on her own and was dependent on male prison officers for her hygienic needs.

Avşar v. Turkey

Judgment of 10 July 2001

Alleged violations and findings of the Court:

- Article 2 (right to life): violation
- Article 3 (prohibition of torture or degrading treatment or punishment): no violation
- Article 6 (delay in the criminal trial): complaints dealt with under Article 13
- Article 13 (right to an effective remedy): violation
- Article 14 (prohibition of discrimination): no violation

The applicant complained, *inter alia*, that his brother was taken away and arbitrarily killed by village guards, acting to the knowledge, and with the protection of, the authorities, and that there was no effective investigation into his killing.

Feldek v. Slovakia

Judgment of 12 July 2001

Alleged violations and findings of the Court:

- Article 9 (freedom of thought): no separate issue
- Article 10 (freedom of expression): violation
- Article 14 (prohibition of discrimination): no violation

Several newspapers had published, in July 1992, a statement which the applicant had distributed to the public information service, in which he made references to the "fascist past" of a Minister, who sued the applicant for defamation and obtained that a statement be published in five newspapers asserting that Mr Feldek's statement represented "a gross slander and disparagement ...".

Bilgin v. Turkey

Judgment of 17 July 2001

Alleged violations and findings of the Court:

- Article 2 (right to life): violation
- Article 5 (right to liberty and security): violation
- Article 13 (right to an effective remedy): violation.

The applicant alleged that his brother, who had disappeared while being held in custody, had probably been killed by the security forces during interrogation and that there was a lack of an effective investigation into the circumstances of his disappearance despite the fact that he gave precise information on the place and date of his detention.

Sadak, Zana, Dicle and Doğan v. Turkey

Judgment of 17 July 2001

Alleged violations and findings of the Court:

- Article 6 §§ 1 and 3 a) and b) (right to a fair trial): violation
- Articles 10 (freedom of expression), 11 (freedom of association) and 14 (prohibition of discrimination): unnecessary to examine the complaints raised under these articles

The four applicants, all former parliamentarians and members of the former Democracy Party, were accused of having committed treason, punishable by the death penalty under Article 125 of the Criminal Code, in relation to activities allegedly undertaken in the name of the Kurdistan Workers' Party and declarations in support of the said Party. They were convicted by the Ankara State Security Court to 15 years' imprisonment for belonging to an armed organisation, but the charges under section 125 were thrown out.

They complained that they were denied a fair trial before an independent and impartial tribunal, particularly in view of the presence of a military judge among the State Security Court judges who convicted them. They also alleged that they were convicted of putting forward, as parliamentarians, the views of the Kurdish population in Turkey and of having developed peaceful solutions to the Kurdish question.

Association Ekin v. France

Judgment of 17 July 2001

Alleged violations and findings of the Court:

- Article 6 § 1 (right to a fair hearing): violation
- Article 10 (freedom of expression): violation
- Article 10 taken together with Article 14 (prohibition of discrimination): no separate issue arose
- Article 13 (right to an effective remedy): unnecessary to examine the complaint raised under this Article

The applicant association, a cultural Basque association based in Bayonne (France), complained that the Ministry of the Interior banned the distribution in France of a book on the Basque conflict, entitled *Euskadi at war*, on the ground that it promoted separatism, vindicated recourse to

violent action and, accordingly, represented a potential danger for public order. In June 1988 it appealed against the decision in question. In July 1997, the *Conseil d'État* quashed the ministerial decree but, on the other hand, it held that the law on which the decision was based was not contrary to Article 10 of the European Convention on Human Rights taken together with Article 14.

The applicant complained that section 14 of the Law of 1881, as amended, was too unclear for a legal rule and that it did not meet the requirement to be accessible and foreseeable in its effects. Nor was, in his opinion, the interference permitted under the rule necessary in a democratic society. Furthermore, it alleged that the provision gave rise to a distinction in freedom of expression cases on the basis of language or national origin and consequently, was contrary to Article 14 taken together with Article 10. It also complained of an excessive length of the proceedings and a violation of the right to an effective remedy.

Pellegrini v. Italy

Judgment of 20 July 2001

Alleged violations and findings of the Court:

– Article 6 § 1 (right to a fair hearing): violation

The applicant complained that the Italian courts had granted an authority to enforce the decree of nullity of her marriage, issued by the ecclesiastical courts after a procedure in which the adversarial principle was not respected, without having been informed of the grounds on which the nullity petition was made by her husband and without having been assisted by a lawyer.

Valašinas v. Lithuania

Judgment of 24 July 2001

Alleged violations and findings of the Court:

– Article 3 (prohibition of degrading treatment): violation

– Article 8 (right to respect for correspondence): violation

– Article 34 (right to individual petition): no violation

The applicant, who served a sentence of 9 years' imprisonment for the theft, possession and sale of firearms, alleged that the conditions of his detention during a part of his punishment – general facilities in the prison, body searches, disciplinary penalties – amounted to degrading treatment. He also complained that his correspondence with the European Commission and Court of Human Rights was controlled.

Horvat v. Croatia

Judgment of 26 July 2001

Alleged violations and findings of the Court:

– Article 6 § 1 (length of proceedings): violation

– Article 13 (right to an effective remedy): violation

The applicant complained about the length of civil proceedings concerning the

repayment of two loans, which lasted more than six years – of which the Court could only take into consideration three years and eight months, time since the date at which Croatia recognised the right of individual petition – and the lack of effective remedy.

Refah Partisi, Erkaban, Kazan and Tekdal v. Turkey

Judgment of 31 July 2001

Alleged violations and findings of the Court:

– Article 11 (freedom of assembly and association): no violation

– Articles 9 (freedom of thought), 10 (freedom of expression), 14 (prohibition of discrimination), 17 (prohibition of abuse of rights), 18 (limitation on use of restrictions on rights), 1 and 3 of Protocol No. 1 (protection of property, and right to free elections): no separate issues arose under these Articles

After the legislative elections in 1995, the Refah Partisi had become the leading Turkish political party. In June 1996, it came into power by forming a coalition government with a centre-right party, the DoEru Yol. On 16 January 1998, the Constitutional Court made an order dissolving the Refah Partisi on the ground that it had become a “centre of activities against the principle of secularism”, affecting the Turkish democratic order. It also declared that the party's assets were to be transferred by operation of law to the Treasury, and imposed a further sanction in the form of a ban on the three individual applicants' sitting in Parliament or holding certain other forms of political office for a period of five years.

The Court held that the sanctions imposed on the applicants could reasonably be considered to meet a “pressing social need” for the protection of democratic society, since the leaders of the Refah Partisi had declared their intention to establish a plurality of legal systems based on differences in religious belief, to institute Islamic law (the *Sharia*), and left in doubt their position regarding recourse to force in order to come to power.

Perna v. Italy

Judgment of 25 July 2001

Alleged violations and findings of the Court:

– Article 6 §§ 1 and 3 d) (right to a fair hearing): no violation

– Article 10 (freedom of expression): violation on account of a part of the complaints

The case referred to a verdict of guilty against a journalist for defamation of a judicial officer in a daily newspaper.

The applicant complained of an infringement of his right to defend himself – since the Italian courts had refused throughout the proceedings to admit the evidence he had sought to adduce – and of his right to freedom of expression.

Boultif v. Switzerland

Judgment of 2 August 2001

Alleged violations and findings of the Court:

– Article 8 (right to respect for private and family life): violation

The applicant, an Algerian national, entered Switzerland with a tourist visa in December 1992. On 19 March 1993 he married a Swiss national. On 11 May 1998 he started a two-year prison sentence for robbery and other offences, and on 19 May the Swiss authorities refused to renew his residence permit. On 3 December 1999 the Federal Aliens' Office ordered him to leave Switzerland by 15 January 2000. Having left Switzerland for Italy, he complained that the order resulted in his being separated from his wife, who did not speak Arabic and could not be expected to follow him to Algeria.

Vittorio and Luigi Mancini v. Italy

Judgment of 2 August 2001

Alleged violations and findings of the Court:

– Article 5 § 1 c) (right to liberty and security): violation

The applicants complained about the legality of their detention on remand. On 23 December 1997, they were arrested and taken to the Rome prison. On 24 December 1997, they lodged an appeal against the detention order and, on 7 January 1998, the Rome court chamber in charge of the re-examination of the safety measures replaced the detention on remand of the applicants by a house arrest. The text of this new order was deposited with the registry on 10 January, but, due to the unavailability of a prison service, their transfer home could take place only on 13 January.

The Court held that the delay in the execution of the decision was not reduced to the minimum and was incompatible with Article 5 § 1.

N.F. v. Italy

Judgment of 2 August 2001

Alleged violations and findings of the Court:

– Article 8 (right to respect for private life): no violation

– Article 11 (freedom of assembly and association) concerning the restrictions prescribed by law: violation

– Articles 9 (freedom of thought, conscience and religion), 10 (freedom of expression) and 11 (freedom of assembly and association), taken alone or in conjunction with Article 14 (prohibition of discrimination): not necessary to examine these complaints

Disciplinary proceedings were brought against the applicant, a member of the judiciary, in connection with his masonic links. He was reprimanded for having undermined the prestige of the judiciary, under a 1990 directive read in conjunction with a decree of 1946.

The Court found that the terms of the 1990 directive were not sufficiently clear to allow that the sanction be “foreseeable” or “prescribed by law” within the meaning of Article 11 of the Convention.



Elia S.r.l. v. Italy

Judgment of 2 August 2001

Alleged violations and findings of the Court:

- Article 1 of Protocol No. 1 (protection of property): violation

The applicant company complained about the harmful consequences of the uncertain situation over the period 1979 to 1995 concerning land it owned, which was due to an absolute ban on building in view of its expropriation.

For the Court, this uncertainty, coupled with the lack of an effective domestic remedy and denial of any compensation, upset the requisite fair balance between the demands of the general interest and the protection of the right to peaceful enjoyment of possessions.

Grande Oriente d'Italia di Palazzo Giustiniani v. Italy

Judgment of 2 August 2001

Alleged violations and findings of the Court:

- Article 11 (freedom of assembly and association): violation
- Articles 13 (right to an effective remedy) and 14 (prohibition of discrimination): no necessity to examine separately the complaints raised under these articles

The applicant association is an Italian masonic association formed of several lodges. It has been in existence since 1805 and is affiliated to the Universal Freemasons. It complained about the Marches region's adoption of the "law of 1996", which obliges candidates for public office to declare that they are not members of the Freemasons.

The Court found that the measure in question was not necessary in a democratic society.

Şahiner v. Turkey

Judgment of 25 September 2001

Alleged violations and findings of the Court:

- Article 6 § 1 (right to a fair hearing within a reasonable time): violation

The applicant was accused of being a member of the illegal armed organisation Dev-Yol and of involvement in activities undertaken in the name of Dev-Yol including bomb attacks and killings. He complained about the lack of independence and impartiality of the Ankara Martial Law Court and the length of the criminal proceedings against him (more than fifteen years).

P.G. and J.H. v. the United Kingdom

Judgment of 25 September 2001

Alleged violations and findings of the Court:

- Article 6 § 1 (right to a fair trial): no violation for the two complaints concerning, one the non-disclosure to the applicants of part of a report at trial or the hearing of evidence from a police officer in their absence or in the absence of their lawyers, the other concerning the use at trial of the materials obtained by the covert listening devices
- Article 8: violation concerning the use of covert listening devices at a flat, on the one

hand, and on a police station, on the other hand, and no violation concerning obtaining information about the use of a telephone

- Article 13 (right to an effective remedy): violation concerning the use of covert listening devices

The applicants, suspected of planning an armed robbery of a Securicor cash collection van, were kept under surveillance with a covert listening device. The device was discovered by them and the robbery did not take place. Some time later, they were arrested in a stolen car containing balaclavas and other material. As they wished to obtain speech samples to compare with the tapes, the police placed covert listening devices in the applicants' cells and on the police officers who were to be present when the applicants were charged. During their trial, evidence derived from the use of the covert listening devices was deemed admissible and some documents were withheld from the applicants and their lawyers, as well as an oral evidence taken in their absence. They were convicted of conspiracy to rob and sentenced to 15 years' imprisonment, without leave to appeal.

Stankov and the United Macedonian Organisation Ilinden v. Bulgaria

Judgment of 2 October 2001

Alleged violations and findings of the Court:

- Article 11 (freedom of assembly and association): violation

The applicant association, a branch of which was chaired by Mr Stankov at the time of the facts, was founded in 1990 to unite Macedonians in Bulgaria on a regional and cultural basis and to achieve recognition of the Macedonian minority in Bulgaria. In 1991, it was refused registration as the courts found that its aims were, in reality, directed against the unity of the nation, that it advocated ethnic hatred and was dangerous for the territorial integrity of Bulgaria.

The scope of the case before the Court was limited to events between 1994 and 1997, when the authorities prohibited the holding of commemorative meetings organised by the applicant association.

Hatton and others v. the United Kingdom

Judgment of 2 October 2001

Alleged violations and findings of the Court:

- Article 8 (right to respect for private and family life and home): violation
- Article 13 (right to an effective remedy): violation

The applicants complained, among other things, that, following the introduction of a new scheme to restrict the noise caused by night flying at Heathrow airport, nighttime noise increased, especially in the early morning, which constituted an interference with their right to respect for their private and family lives and their homes. They also claimed that judicial review was not an effective remedy within the meaning of Article 13,

as it failed to examine the merits of decisions by public authorities and was prohibitively expensive for individuals.

G.B. v. France

Judgment of 2 October 2001

Alleged violations and findings of the Court:

- Article 6 §§ 1 (right to a fair trial within a reasonable time) and 3 b) (right to adequate time and facilities for preparation of defence): violation

The case concerns criminal proceedings brought against a French national, who was convicted of rape and indecent assaults of under-age victims. During his trial, an old medico-psychological report on the applicant was produced for the first time, which led an expert to change his opinion, favourable until that time, on the threat posed by G.B. and the likelihood of his reoffending. He was sentenced to 18 years' imprisonment.

The applicant complained that his defence counsel was not given sufficient time to study the documents on the strength of which the expert changed his opinion, and that his request for a new expert opinion was rejected.

Potocka and Others v. Poland

Judgment of 4 October 2001

Alleged violations and findings of the Court:

- Article 6 § 1 (effective access to a court): no violation

The case concerned the ownership of two plots of land in Warsaw, which had been expropriated in 1945. In 1947 an application was submitted for temporary ownership of the land, which remained unanswered. Under the Land Administration and Expropriation Act of 1985, the applicants applied unsuccessfully for the right to permanent use of the plots in question. Their appeal to the Supreme Administrative Court was rejected.

The applicants alleged, in particular, that they did not have access to a court, as the Supreme Administrative Court, which was competent to deal with their case, did not have full jurisdiction on questions of fact and law. In addition, that court's jurisdiction was limited to cases concerning administrative proceedings instituted after a certain date.

Kalantari v. Germany

Judgment of 11 October 2001

Alleged violations and findings of the Court:

- Article 3 (prohibition of inhuman or degrading treatment): struck out of the list (assurances by the German Government that the applicant was no longer to be deported)

Fleeing from Iran, the applicant applied for political asylum in Germany. He claimed that one of his sisters had been executed in Iran and another had disappeared and that he had taken part in anti-government activities and had decided to leave Iran after hearing that his home had been searched. His ap-

plication was rejected, as were his appeals against the decision.

He alleged that his expulsion to Iran would put him at risk of being subjected to inhuman or degrading treatment.

Eliazer v. the Netherlands
Judgment of 16 October 2001

Alleged violations and findings of the Court:

- Article 6 § 1 (access to court) taken with Article 6 § 3 c) (right to defend oneself in person or through legal assistance of own choosing): no violation
- Article 14 (prohibition of discrimination): no violation

Convicted in proceedings held *in absentia* on charges of possession of cocaine, the applicant lodged subsequently a cassation appeal, which was declared inadmissible on the ground that, since he had been convicted *in absentia*, he should first file an objection against his conviction in order to obtain a retrial.

He complained of lack of access to the Supreme Court and of discriminatory treatment, in that, if he had been present at his trial, he would have been able to lodge a cassation appeal.

The Court took into account the entirety of the proceedings and the balance between the various interests involved, and reached the conclusion that the State's interest in ensuring that as many cases as possible are tried in the presence of the accused before allowing access to cassation proceedings outweighed the accused's concern to avoid the risk of being arrested by attending his trial. It also considered that the situation of a person convicted *in absentia* could not be comparable to that of a person convicted following adversarial proceedings.

Brennan v. the United Kingdom
Judgment of 16 October 2001

Alleged violations and findings of the Court:

- Article 6 §§ 1 and 3 c) (right to a fair trial): no violation in respect of two complaints and violation in respect of one complaint

The applicant, an Irish national, was arrested on 21 October 1990, under the 1984 Act, in relation to the murder of a former member of the Ulster Defence Regiment. He was held in Castlereagh Detention Centre from 21 to 25 October and saw his solicitor for the first time on 23 October, during which meeting a police officer was present. The applicant was ultimately found guilty of murder.

He complained of the circumstances in which he was questioned by the police after his arrest, alleging, among other things, that he had been denied the right to consult his solicitor during the initial period in police custody, that he made admissions prior to receiving any legal advice, that he was not permitted to have his solicitor present during police interviews or in private and that he was, as a result, deprived of a fair trial due to the reliance on his admissions to convict him.

O'Hara v. the United Kingdom
Judgment of 16 October 2001

Alleged violations and findings of the Court:

- Article 5 § 1 (right to liberty and security): no violation
- Article 5 § 3 (right to be brought promptly before a judge): violation
- Article 5 § 5 (right to compensation): no violation in relation to the complaint raised under Article 5 § 1 and violation in relation to the complaint raised under Article 5 § 3

The applicant, an Irish national and a prominent member of Sinn Féin, was arrested in 1985, under the 1984 Prevention of Terrorism Act (the 1984 Act), on suspicion of having committed a terrorist offence. He was held in Castlereagh Detention Centre for 6 days and 13 hours, where he was questioned by the police without making any reply. He was subsequently released. He challenged the lawfulness of his arrest in domestic proceedings, where the courts rejected his complaints.

He alleged he was not arrested on reasonable suspicion that he had committed an offence, that he was not brought promptly before a judge or other judicial officer and that he did not have an enforceable right to compensation in respect of these matters.

Pannullo and Forte v. France
Judgment of 30 October 2001

Alleged violations and findings of the Court:

- Article 8 (right to respect of family life): violation

The applicants, Italian nationals, complained, in particular, about the delay by the French authorities in returning their daughter's body to them after her death in hospital on 24 June 1996. An autopsy was carried out on 9 July 1996 and on 14 February 1997 a judge ordered that the child's body be returned to her parents.

Solakov v. "the former Yugoslav Republic of Macedonia"
Judgment of 31 October 2001

Alleged violations and findings of the Court:

- Article 6 §§ 1 and 3 d) (right to a fair trial): no violation

Suspected of having smuggled drugs from Bulgaria and "the former Yugoslav Republic of Macedonia" to the United States and of having set up an international drug-trafficking network, the applicant was arrested on 30 September 1997. On 28 November, the investigating judge summoned Mr Solakov's first lawyer to a hearing in the United States. The applicant appointed another lawyer to represent him, who allegedly told the courts he was unable to pay the travel expenses and that there was no need for him to be present. Witness statements from the United States hearing were read out at the applicant's trial before Skopje Municipal Court, which rejected both the applicant's objection that the defence had not been able to cross-examine the witnesses in the United States and his request

that two additional witnesses be heard. The applicant was sentenced to ten years' imprisonment. On 6 March 1998 he appealed unsuccessfully to Skopje Appellate Court. Following an appeal by the public prosecutor, the Appellate Court increased the applicant's sentence to thirteen years' imprisonment. His appeal on points of law was dismissed by the Supreme Court.

Einhorn extradition

The Court decided on 19 July to lift the interim measures adopted in the case of Einhorn v. France, namely its request to the French Government to postpone the extradition of Ira Einhorn to the United States. This request was made following a suicide attempt by the applicant.

Mr Einhorn, an American national, had run away in France after having been condemned in the United States, *in absentia*, for murder. The French Government having agreed to extradite Mr Einhorn, on the ground that he would benefit from a new and fair trial and that he would not face the death penalty, Mr Einhorn lodged an application before the European Court of Human Rights, invoking Articles 3 (prohibition of inhuman or degrading treatment) and 6 § 3 (right to a fair trial) of the Convention.

The Court has asked the French Government for further information about the applicant's legal situation regarding a possible retrial of his case if he is returned to the United States, and it will then consider the admissibility of the application.



Judgments of the Court between 1 July and 31 October 2001 for which a press release was issued

Applicants Halim Akça, Mehmet Akçay, Ahmet Akkaya, İbrahim Akkaya, Mustafa Akkaya, Hüseyin Balcı, Macit Balcı, Bilge Baltekin, Halil Başar, Talip Başar, Ahmet Bilgin, Mahmut Bilgin, Mehmet Bilgin (No. 2), Yusuf Bilgiç, Fethiye Dinç, Ünzile Dokel, Saadettin Eğrikale, Naşide Erol, Recep Erol, Sefer Erol

Defendant state Turkey
Articles concerned 6 § 1, 1 of Protocol No. 1
Date 03/07

Applicant Romo

Defendant state France
Articles concerned 6 § 1
Date 03/07

Applicants Ilaşcu, Ivanțoc, Leşco and Petrov-Popa

Defendant states Moldova and Russian Federation
Articles concerned 2, 3, 5, 6, 8, 34, 1 of Protocol No. 1 : Admissibility decision
Date 04/07

Applicant Erdem

Defendant state Germany
Articles concerned 5 § 3, 6 § 2, 8
Date 5/07

Applicant Giannangeli, P.G.F.

Defendant state Italy
Articles concerned 6 § 1
Date 5/07

Applicant Phillips

Defendant state United Kingdom
Articles concerned 6 §§ 1 and 2, 1 of Protocol No. 1
Date 5/07

Applicant Price

Defendant state United Kingdom
Articles concerned 3/01
Date 10/07

Applicants Kürküt, Değer, Avcı, Orak, Boğa, Doğan, Parlak, Aktürk and Tay, Kızılgedik, Boğ, Demir, Şenses

Defendant state Turkey
Articles concerned 3, 5 § 3, 6 §§ 1 and 3 c), 13, 14 (struck out of the list: friendly settlement)
Date 10/07

Applicants K. Aydın, C. Aydın, S. Aydın and Others

Defendant state Turkey
Articles concerned 2, 3, 5, 6, 8, 13, 14, 18, 1 of Protocol No. 1 (struck out of the list: friendly settlement)
Date 10/07

Applicants Özçelik and Others, Fidan, Çağro and Özarslaner, Mutlu and Yıldız

Defendant state Turkey
Articles concerned 5 § 3 (struck out of the list: friendly settlement)
Date 10/07

Applicants Yeşiltepe, Çakmak

Defendant state Turkey
Articles concerned 5 § 3, 4 and 5 (struck out of the list: friendly settlement)
Date 10/07

Applicants Küçük, Ertuğrul

Defendant state Turkey
Articles concerned 1 of Protocol No. 1 (struck out of the list: friendly settlement)
Date 10/07

Applicant Lamanna

Defendant state Austria
Articles concerned 6 §§ 1 and 2
Date 10/07

Applicant Versini

Defendant state France
Articles concerned 6 § 1, 1 of Protocol No. 1
Date 10/07

Applicant Tricard, Charles

Defendant state France
Articles concerned 6 § 1
Date 10/07

Applicant Aşar

Defendant state Turkey
Articles concerned 2, 3, 13, 14
Date 10/07

Applicant Feldek

Defendant state Slovakia
Articles concerned 9, 10, 14
Date 12/07

Applicant Prince Hans-Adam II of Liechtenstein

Defendant state Germany
Articles concerned 6 § 1, 14, 1 of Protocol No. 1
Date 12/07

Applicants K. and T.

Defendant state Finland
Articles concerned 8, 13
Date 12/07

Applicant Ferrazzini

Defendant state Italy

Articles concerned 6 § 1, 14
Date 12/07

Applicant Malhous

Defendant state Czech Republic
Articles concerned 6 § 1
Date 12/07

Applicant Bilgin

Defendant state Turkey
Articles concerned 2, 5, 13
Date 17/07

Applicants Karatepe and Kırt, Okuyucu, Kara and Bilmen, Bağcı and Murğ, Çaloğlu, C. Demir, M. Demir and S. Gül

Defendant state Turkey
Articles concerned 5 § 3 (struck out of the list: friendly settlement)
Date 17/07

Applicant Pogorzelec

Defendant state Poland
Articles concerned 6 § 1
Date 17/07

Applicant Sadak and Others

Defendant state Turkey
Articles concerned 6 § 3 a) and b)
Date 17/07

Applicant M.T. and Others, A.T. and Others, E.A. and Others

Defendant state Turkey
Articles concerned 1 of Protocol No. 1
Date 17/07

Applicant Association Ekin

Defendant state France
Articles concerned 6 § 1, 10 (alone or taken together with Article 14), 13
Date 17/07

Applicant Pellegrini

Defendant state Italy
Articles concerned 6 § 1
Date 20/07

Applicant Valašinas

Defendant state Lithuania
Articles concerned 3, 8, 34
Date 24/07

Applicant Rutten

Defendant state Netherlands
Articles concerned 5 §§ 1 and 4
Date 24/07

Applicant Van Nus

Defendant state Netherlands
Articles concerned 6 § 1 (struck out of the list: friendly settlement)
Date 24/07

Applicant Hirst

Defendant state United Kingdom
Articles concerned 5 § 4
Date 24/07



<p>Applicant Perna Defendant state Italy Articles concerned 6 §§ 1 and 3 d), 10 Date 25/07</p>	<p>Applicant Boultif Defendant state Switzerland Articles concerned 8 Date 2/08</p>	<p>Applicant Ercan Defendant state Turkey Articles concerned 3, 5 §§ 3 and 4, 6 §§ 1 and 3 c) (struck out of the list: friendly settlement) Date 25/09</p>
<p>Applicant Martinez, F.R. and three others Defendant state Italy Articles concerned 6 § 1 Date 26/07</p>	<p>Applicants Vittorio and Luigi Mancini Defendant state Italy Articles concerned 5 § 1 c) Date 2/08</p>	<p>Applicants Göktaş and Others, Morsümbül, Yıldırım and Others Defendant state Turkey Articles concerned 5 § 3 (struck out of the list: friendly settlement) Date 25/09</p>
<p>Applicant Jedamski Defendant state Poland Articles concerned 6 § 1 Date 26/07</p>	<p>Applicant Grande Oriente d'Italia di Palazzo Giustiniani Defendant state Italy Articles concerned 11, 13, 14 Date 2/08</p>	<p>Applicant İşçi Defendant state Turkey Articles concerned 3, 5, 6, 8, 13, 14, 1 of Protocol No. 1 (struck out of the list: friendly settlement) Date 25/09</p>
<p>Applicant Ilijkov Defendant state Bulgaria Articles concerned 5 §§ 3 and 4, 6 § 1 Date 26/07</p>	<p>Applicants Yusuf Çelebi (No. 2), Özen (No. 2), Hasan Öztürk (No. 2), Ömer Öztürk, Yunus Öztürk (No. 2), Sülün (No. 2), Hüseyin Şahin, Mehmet Şahin, Mustafa Şahin, Celal Şen, Keziban Şen, İbrahim Taşdemir, Mevlüt Taşdemir, Zekeriya Taşdemir, Necati Tosun, Fatma Yavuz, Hüseyin Yavuz, Şakir Yılmaz, Öztekin (No. 2), Baltekinoğlu, Başar, Satu Bozkurt, İsmihan Çelebi, Mehmet Çelebi, Daniş (No. 2), Küçükdemirkan, Minikli, Adil Öztekin, Ekrem Öztekin, Havva Öztekin, Hicap Öztekin, Mahir Taşdemir, Mustafa Tosun, Şevket Yılmaz Defendant state Turkey Articles concerned 6 § 1, 1 of Protocol No. 1 Date 18/09</p>	<p>Applicants Günay and Others Defendant state Turkey Article concerned 5 § 3 Date 27/09</p>
<p>Applicant Krepis Defendant state Poland Articles concerned 5 § 3, 6 § 1 Date 26/07</p>	<p>Applicant Di Giovine Defendant state Italy Articles concerned 8 Date 26/07</p>	<p>Applicant Nascimento Defendant state Portugal Articles concerned 6 § 1 Date 27/09</p>
<p>Applicant Horvat Defendant state Croatia Articles concerned 6 § 1, 13 Date 26/07</p>	<p>Applicant S.G. Defendant state France Articles concerned 6 § 1 (struck out of the list: applicant deceased) Date 18/09</p>	<p>Applicant Jesus Mafra Defendant state Portugal Articles concerned 6 § 1 (struck out of the list: friendly settlement) Date 27/09</p>
<p>Applicant Mortier Defendant state France Articles concerned 6 § 1 Date 31/07</p>	<p>Applicants I.J.L., G.M.R. and A.K.P. Defendant state United Kingdom Articles concerned 6 § 1 (decision on just satisfaction) Date 25/09</p>	<p>Applicant Hirvisaari Defendant state Finland Articles concerned 6 § 1 Date 27/09</p>
<p>Applicant Zannouti Defendant state France Articles concerned 5 § 3, 6 § 1 Date 31/07</p>	<p>Applicant P.G. and J.H. Defendant state United Kingdom Articles concerned 6 § 1, 8, 13 Date 25/09</p>	<p>Applicant Hatton and Others Defendant state United Kingdom Articles concerned 8, 13 Date 2/10</p>
<p>Applicant Malve Defendant state France Articles concerned 6 § 1 Date 31/07</p>	<p>Applicants Şahiner, Arı, Mehmet Ali Yılmaz, Gülşen and Halil Yasin Ketençoğlu, Selçuk Yıldırım, Tamkoç, Yalgın, Güneş, Şahin, Kızılöz, Fikret Doğan, Yakış, Arap Yalgın and Others Defendant state Turkey Articles concerned 6 § 1 Date 25/09</p>	<p>Applicant Akbay Defendant state Turkey Articles concerned 3, 5 §§ 1 c), 3, 4 and 5, 6 §§ 1 and 3 a), b) and c), 13 (struck out of the list: friendly settlement) Date 2/10</p>
<p>Applicants Refah Partisi, Erbakan, Kazan and Tekdal Defendant state Turkey Articles concerned 9, 10, 11, 14, 17, 18, 1 and 3 of Protocol No. 1 Date 31/07</p>	<p>Applicants Cooperativa La Laurentina, Elia S.r.l. Defendant state Italy Articles concerned 1 of Protocol No. 1 Date 2/08</p>	<p>Applicants Duyonov and Others Defendant state United Kingdom Articles concerned 6, 13 (struck out of the list: friendly settlement) Date 2/10</p>
<p>Applicant N.F. Defendant state Italy Articles concerned 8, 9, 10, 11 (taken in isolation or together with Article 14) Date 2/08</p>		<p>Applicant Kounounis Defendant state Cyprus Articles concerned 6 § 1 (struck out of the list: friendly settlement) Date 2/10</p>



NATO action challenged

A hearing was held on 24 October in the case of Bankovic and others v. Belgium and 16 other contracting states concerning the bombing by NATO of the Radio-Television Serbia headquarters in Belgrade on 23 April 1999, as part of the air-strike campaign against the Federal Republic of Yugoslavia during the Kosovo conflict. Five applicants are relatives of the Radio-Television Serbia staff killed during the strike and the sixth was injured.

The case is brought against the 17 member states of NATO which are also Contracting States to the European Convention on Human Rights. It alleges a violation of right to life, freedom of expression and right to an effective remedy.

The hearing concerned the admissibility of the case only, and the main issues relate to whether the applicants fell within the "jurisdiction" of the respondent states, and also to whether the actions of NATO forces could be held to be the responsibility of the Governments of the respondent States.

Applicant G.B.

Defendant state France
Articles concerned 6 §§ 1 and 3 b)
Date 2/10

Applicants Stankov and the United Macedonian Organisation Ilinden

Defendant state Bulgaria
Articles concerned 11
Date 2/10

Applicants Barone, Immobiliare Anba, Micucci, Serlenga, Pini and

Bini, Girolami Zurla, Castello, Tentori Montalto, SIT s.r.l., Musiani Dagnini

Defendant state Italy
Articles concerned 6 § 1, 1 of Protocol No. 1 (struck out of the list: friendly settlement)
Date 4/10

Applicant I.M.

Defendant state Greece
Articles concerned 6 § 1 (struck out of the list: friendly settlement)
Date 4/10

Applicant Marikanos

Defendant state Greece
Articles concerned 6 § 1, 1 of Protocol No. 1 (struck out of the list: friendly settlement)
Date 4/10

Applicant Ilowiecki

Defendant state Poland
Articles concerned 5 §§ 3 and 4, 6 § 1
Date 4/10

Applicant Potocka and Others, Bejer

Defendant state Poland
Articles concerned 6 § 1
Date 4/10

Applicant Costa

Defendant state Portugal
Articles concerned 6 § 1
Date 4/10

Applicants Barata Dias, Jácome Allier, Branquinho Luís

Defendant state Portugal
Articles concerned 6 § 1 (struck out of the list: friendly settlement)
Date 4/10

Applicants Schweighofer and Others

Defendant state Austria
Articles concerned 6 § 1
Date 9/10

Applicant Parège

Defendant state France
Articles concerned 6 § 1
Date 9/10

Applicant Sahin

Defendant state Germany
Articles concerned 8 (alone or taken together with Article 14)
Date 11/10

Applicant Sommerfeld, Hoffmann

Defendant state Germany
Articles concerned 6, 8 (alone or taken together with Article 14)
Date 11/10

Applicant H.T.

Defendant state Germany
Articles concerned 6 § 1
Date 11/10

Applicant Rodríguez Valín

Defendant state Spain
Articles concerned 6 § 1, 14
Date 11/10

Applicant Díaz Aparicio

Defendant state Spain
Articles concerned 6 § 1
Date 11/10

Applicant Kalantari

Defendant state Germany
Articles concerned 3 (struck out of the list)
Date 11/10

Applicant O'Hara

Defendant state United Kingdom
Articles concerned 5 §§ 1, 3 and 5
Date 16/10

Applicant Brennan

Defendant state United Kingdom
Articles concerned 6 §§ 1 and 3 c)
Date 16/10

Applicant Eliazer

Defendant state Netherlands
Articles concerned 6 § § 1 and 3 c), 14
Date 16/10

Applicant Indelicato

Defendant state Italy
Articles concerned 3
Date 18/10

Applicant Sciortino

Defendant state Italy
Articles concerned 6 § 1, 1 of Protocol No. 1
Date 18/10

Applicant Kulakova

Defendant state Latvia
Articles concerned 6 § 1 (struck out of the list: friendly settlement)
Date 18/10

Applicant Mianowicz

Defendant state Germany
Articles concerned 6 § 1
Date 18/10

Applicants Scannella, Gusso and Grasso, Squillante, G. and C.C., Greco, Iezzi and Cerritelli, L., Carrone, Ragas, R.P. and Others, Pezzuto, Colacrai, D.I., Aresu, Tartaglia, Minici, Dragonetti, Lucio Mario Catillo, Stefanucci, Calò, Reino, Tozzi, Ar. M., Morese No. 2, Carlucci, Siena, Corcelli, Molè, Cesaro, Buonocore, Efisio Pisano, Altomonte, E.I., Campana

Defendant state Italy
Articles concerned 6 § 1
Date 23/10



Applicant	Saggio
Defendant state	Italy
Articles concerned	6 § 1, 13, 1 of Protocol No. 1
Date	25/10
Applicant	E.H.
Defendant state	Greece
Articles concerned	6 § 1
Date	25/10
Applicant	Tiburzi
Defendant state	Greece
Articles concerned	6 § 1 (struck out of the list: friendly settlement)
Date	25/10
Applicants	Massimo No. 1, Rinaudo and Others, Venturini No. 2, Massimo No. 2, Centineo, Finessi, Raffa, Alicino, Valvo and Branca, Scarfone, Servodidio, Guerrera No. 1, Rizzo, Quattrone, Di Sisto, Napolitano, Viola, Guerrera No. 2, Follo, Mel Sud S.r.l., G.C., Pastore, Castrogiovanni, De Simine, Vairano, Seminara, I.P.E.A. S.r.l., Galasso, Di Girolamo and Others,

Defendant state	Italy
Articles concerned	6 § 1
Date	25/10
Applicants	Porcelli, Atzori, Bartolini, Condominio Città di Prato, Paoletti No. 2, Ascolinio, Troiani, Rosetti e Ciucci & C., E.G., Spera No. 2, Siper S.r.l., Di Francesco, Masala, Galgani and De Matteis No. 2, Mantini, Pomante Pappalepore, Il Messagero S.a.s., O.B., Musti and Iarossi, Il Messaggero S.a.s. no 7, D'Ammassa and Frezza, Stefanini, G.F., F.C. and F.G., Ferrari No. 2, Iacovelli, Rongoni, Venturini, Am. M. and S.I., Morelli and Levantesi, Di Fabio, Valenti, Rizio, Bini, Iannetti, Salvi, Rosa, Baldi, Marinelli, Mari No. 2, De Santis No. 1, De Santis No. 2, Savanna and La Selva, Baroni and Michinelli, Marcantoni, Alfonsoetti, De Pilla, Franco, Chinnici, Consalvo, Lilla Santilli, Barnaba

Applicants	Coelho Alves, Themudo Barata No. 2
Defendant state	Portugal
Articles concerned	6 § 1 (struck out of the list: friendly settlement)
Date	25/10
Applicant	Pires
Defendant state	Portugal
Article concerned	6 § 1
Date	25/10
Applicant	Saki
Defendant state	Turkey
Articles concerned	3, 13 (struck out of the list: friendly settlement)
Date	30/10
Applicants	Bürkeç, Kanbur, Başpınar, Hasan Yağız, Adıyaman, Genç, Pekdaş, Akçam, Keskin, Karademir, Akyazı, İnan
Defendant state	Turkey
Articles concerned	6 § 1
Date	30/10
Applicant	Erdemli
Defendant state	Turkey
Articles concerned	6 § 1 (struck out of the list: friendly settlement)
Date	30/10

Publications

New series: Human rights handbooks

DGII's information and publication support unit (IPSU) has launched a new series entitled "Human rights handbooks".

The human rights handbooks are intended as a very practical guide to how particular articles of the European Convention on Human Rights have been applied and interpreted by the European Court of Human Rights in Strasbourg. They were written with legal practitioners, and particularly judges, in mind, but are accessible also to other interested readers.

There are four titles in the series so far:



No. 1. The right to respect for private and family life – A guide to the implementation of Article 8 of the European Convention on Human Rights

by Ursula Kilkelly

No. 2. Freedom of expression – A guide to the implementation of Article 10 of the European Convention on Human Rights

by Monica Macovei

No. 3. The right to a fair trial – A guide to the implementation of Article 6 of the European Convention on Human Rights

by Nuala Mole and Catharina Harby

No. 4. The right to property – A guide to the implementation of Article 1 of Protocol No. 1 to the European Convention on Human Rights

by Monica Carss-Frisk

They are published in English only at present. The booklets are available free of charge from the Human Rights Information Centre.

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 included here in a “country-by-country” list, 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://www.coe.int/cm/>.

Publication of the Committee of Ministers' human rights work

The Council of Europe Committee of Ministers has made public the annotated agenda of its 3 October human rights meeting.

During this meeting, the Committee supervised the execution of more than 700 cases, including 92 new judgments of the European Court of Human Rights.

The annotated agenda is available on the Committee of Ministers' website: <http://www.coe.int/cm/>

Resolutions adopted

Austria

Beer Marie-Luise v. Austria

Appl. No. 23962/94, Interim Resolution DH (98) 206

Final Resolution ResDH (2001) 81, 23 July 2001

Violation of Article 6.1 (failure to hold a public hearing)

Appendix to Final Resolution ResDH (2001) 81

Information provided by the Government of Austria during the examination of the Beer Marie-Luise case by the Committee of Ministers

The Government recalls that the Tyrolean Real Property Transaction Act, which was in force at the time of the facts of the present case, lacked precision with re-

gard to the necessity of holding a public hearing in proceedings before the real property transactions authorities (*Grundverkehrs-kommission*). Consequently, these authorities were following the general practice of the administrative authorities under Section 40 of the General Administrative Procedure Act, according to which a hearing is not held in public, unless the law provides otherwise.

Following the finding of the violation of Article 6 in the present case, an amendment of the Tyrolean Real Property Transaction Act adopted. This amendment, which entered into force on 31 December 1999, introduced into the aforementioned law the following new provision:

“The Real Property Transaction Authority shall hold a public hearing if the appeal is not referred back or if it appears already from the file that the appealed decision must be quashed. A hearing does not take place if all parties explicitly renounce it. A hearing may furthermore be omitted in a case in which the appeal is allowed, if it is not contrary to the

request of another party or if the rights of third parties are not affected” (new Article 28, paragraph 2).

This new provision, which sets down the principle of a public hearing before the real property transactions authorities, constitutes henceforth a *lex specialis* to Section 40 of the General Administrative Procedure Act.

The Government notes that this problem does not arise in the other *Länder*.

The Government is of the opinion that the above-mentioned amendment prevents new violations similar to that found in the present case and that Austria has accordingly complied with its obligations under former Article 32 of the Convention.

C.H. v. Austria

Appl. No. 27629/95

Resolution ResDH (2001) 142, 15 October 2001

Article 6.2: friendly settlement

Belgium

Borgers v. Belgium

Appl. No. 12005/86, Court judgment 30 October 1991, Interim Resolution DH (98) 133

Resolution ResDH (2001) 108, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – finding of violation sufficient; costs and expenses award – Convention proceedings

Appendix to Resolution ResDH (2001) 108

Information provided by the Government of Belgium during the examination of the Borgers case by the Committee of Ministers

The Government of Belgium points out that, immediately after the European Court of Human Rights had given judgment in the Borgers case, the *Cour de Cassation* provisionally introduced a new practice whereby applicants may reply to the opinion of the representative of the prosecutor’s office, and the latter no longer takes part in the deliberations. This measure was also applied, in civil proceedings, immediately after the issue of the European Court’s judgment in the Vermeulen case, and, in disciplinary proceedings, immediately after the issue of the judgment in the Van Orshoven case.

This practice has now been enshrined in the Judicial Code, to bring Belgian law fully into line with the requirements of the Convention: the Act of 14 November 2000, amending the Judicial Code in respect of the intervention of the Representative of the prosecutor’s office in proceedings before the *Cour de Cassation* and, in civil cases, the courts deciding on the merits, and amending Articles 420*bis* and 420*ter* of the Code of Criminal Procedure was published in the *Official Gazette* on 19 December 2000, and so came into force on that day.

First, Article 1107 of the Judicial Code has been amended and now provides that:

“After the report, the representative of the prosecutor’s office shall give his conclusions. The parties shall then be heard. [...]”

When the conclusions of the representative of the prosecutor’s office are in writing, the parties may, not later than the hearing and solely in reply to the conclusions of the representative of the prosecutor’s office, submit a memorandum, in which they may not adduce new arguments.

Any party may request at the hearing that the case be held over, so that he can reply orally, or in a memorandum, to the written or oral conclusions of the representative of the prosecutor’s office. The court shall specify the time by which a memorandum must be submitted.”

It should be emphasised that the Act provides that the opinion of the representative of the prosecutor’s office is to be communicated to the parties’ legal representatives or to the parties themselves if they are not represented.

Secondly, the provision contained in Article 1109 of the Judicial Code allowing the representative of the prosecutor’s office to attend the deliberations, except in cases where he himself had appealed to the *Cour de Cassation*, has been revoked. It has been replaced as follows: “judgments shall be given at a public hearing by the President, in the presence of the representative of the prosecutor’s office, and with the registrar in attendance”.

The Government of Belgium believes that there is no further risk of violations of the kind found in this case, and that it has accordingly complied with its obligations under the former Article 53 of the Convention.

De Brabandere and Others v. Belgium

Appl. No. 21010/92, Interim Resolution DH (97) 357, Interim Resolution DH (98) 133

Resolution ResDH (2001) 109, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Decoopman v. Belgium

Appl. No. 28055/95, Interim Resolution DH (99) 470

Resolution ResDH (2001) 107, 15 October 2001

Violation of Article 6.1

E.v.H. v. Belgium

Commission decisions 30 June 1993 and 7 December 1993, Interim Resolution DH (98) 133

Resolution ResDH (2001) 110, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Escobar Londono and Others v. Belgium

Appl. No. 19171/91, Interim Resolution DH (95) 261, Interim Resolution DH (98) 133

Resolution ResDH (2001) 111, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

L.C. v. Belgium

Appl. No. 30346/96, Commission decisions 2 July 1997 and 8 June 1999

Resolution ResDH (2001) 90, 23 July 2001

Article 6.1: friendly settlement

Rosenberg v. Belgium

Appl. No. 24906/94, Commission decisions 15 May 1996 and 26 February 1997, Interim Resolution DH (98) 13, Interim Resolution DH (98) 133

Resolution ResDH (2001) 112, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

S.P.R.L. Anca and Others v. Belgium

Appl. No. 26363/95, Commission decisions 15 May 1996 and 16 October 1996, Interim Resolution DH (97) 509, Interim Resolution DH (98) 133

Resolution ResDH (2001) 113, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Ulens v. Belgium

Appl. No. 22113/92, Commission decision 31 August 1994, Interim Resolution DH (97) 356, Interim Resolution DH (98) 133

Resolution ResDH (2001) 114, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Van Orshoven v. Belgium

Appl. No. 20122/92, Court judgment 25 June 1997, Interim Resolution DH (98) 133

Resolution ResDH (2001) 115, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Van Wijck v. Belgium

Appl. No. 17123/90, Commission decisions 2 December 1992 and 20 October 1993, Interim Resolution DH (98) 133

Resolution ResDH (2001) 116, 15 October 2001

Finding of violation comparable to that in the Borgers case, requiring the same meas-



ures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Vereecken v. Belgium

Appl. No. 20216/92, Commission decisions 1 September 1993 and 31 August 1994, Interim Resolution DH (98) 133

Resolution ResDH (2001) 117, 15 October 2001

Finding of violation comparable to that in the *Borgers* case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Vermeulen v. Belgium

Appl. No. 19075/91, Commission decisions 29 June 1992 and 19 October 1993, Court judgment 20 February 1996, Interim Resolution DH (98) 133

Resolution ResDH (2001) 118, 15 October 2001

Finding of violation comparable to that in the *Borgers* case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 108, above.

Estonia

Slavgorodski v. Estonia

Appl. No. 37043/97, Commission decisions 21 May 1998 and 9 March 1999

Resolution ResDH (2001) 101, 23 July 2001

Article 6.1: friendly settlement

Finland

H.L. v. Finland

Appl. No. 33600/96, Commission decision 20 January 2000

Resolution ResDH (2001) 91, 23 July 2001

Article 6.1: friendly settlement

Kuopila v. Finland

Appl. No. 27752/95, Commission decision 1 June 1999, Court judgment 27 April 2000

Resolution ResDH (2001) 122, 15 October 2001

Violation of Article 6.1 ; Préjudice moral – réparation pécuniaire ; Remboursement partiel frais et dépens – procédure de la Convention

Launikari v. Finlande

Appl. No. 34120/96, Court judgment 20 October 2000

Resolution ResDH (2001) 88 du 23 July 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – domestic proceedings; costs and expenses award – convention proceedings

Valle v. Finlande

Appl. No. 28808/95

Resolution ResDH (2001) 143, 15 October 2001

Article 8 (private life – correspondence)

France

Abbas v. France

Appl. No. 35783/97, Commission decision 9 September 1998

Resolution ResDH (2001) 102, 23 July 2001

Article 8: friendly settlement

Ait Said v. France

Appl. No. 42224/98, admissibility decision 7 March 2000

Resolution ResDH (2001) 144, 15 October 2001

Article 6.1: friendly settlement

Bacquet v. France

Appl. No. 36667/97, admissibility decisions 3 December 1997 and 2 March 1999

Resolution ResDH (2001) 96, 23 July 2001

Article 6.1: friendly settlement

Camilla v. France

Appl. No. 38840/97, admissibility decisions 16 April 1998 and 8 December 1998

Resolution ResDH (2001) 92, 23 July 2001

Article 6.1: friendly settlement

Dachar v. France

Appl. No. 42338/98, admissibility decisions 15 September 1998 and 6 June 2000

Resolution ResDH (2001) 89, 23 July 2001

Violation of Article 6.1; non-pecuniary damage – financial award

Donati v. France

Appl. No. 37989/97, admissibility decision 29 September 1999

Resolution ResDH (2001) 93, 23 July 2001

Article 6.1: friendly settlement

Droulez v. France

Appl. No. 41860/98, admissibility decision 11 January 2000

Resolution ResDH (2001) 94, 23 July 2001

Article 6.1: friendly settlement

M.K. v. France

Appl. No. 30148/96, admissibility decisions 4 September 1996 and 19 September 1997

Resolution ResDH (2001) 95, 23 July 2001

Articles 5.1.f, 8: friendly settlement

Santelli v. France

Appl. No. 40717/98, admissibility decision 26 September 2000

Resolution ResDH (2001) 145, 15 October 2001

Article 6.1: friendly settlement

Siegel v. France

Appl. No. 36350/97, admissibility decision 28 September 1999, Court judgment 28 November 2000

Resolution ResDH (2001) 123, 15 October 2001

Violation of Article 6.1

Germany

Klein v. Germany

Appl. No. 33379/96, Court judgment 27 July 2000

Resolution ResDH (2001) 103, 23 July 2001

Violation of Article 6.1; non-pecuniary damage – finding of violation sufficient; costs and expenses partial award

Greece

Efstratiou v. Greece

Appl. No. 24095/94, Commission decision 16 October 1995, Court judgment 18 December 1996

Resolution ResDH (2001) 82, 23 July 2001

No violation of Article 3; no violation of Article 9; no violation of Article 2 of Protocol No. 1; violation of Article 13 taken together with Article 2 of Protocol No. 1; violation of Article 13 taken together with Article 9; non-pecuniary damage – finding of violation sufficient; costs and expenses partial award – Convention proceedings

Appendix to Resolution ResDH (2001) 82

Information provided by the Government of Greece during the examination of the Efstratiou case by the Committee of Ministers

The Government of Greece notes that the violations of Article 13 in the *Efstratiou* and *Valsamis* cases were due to the well settled case-law of the Supreme Administrative Court, according to which decisions of school authorities to impose on pupils the penalties provided in Article 27 of Presidential Decree Nos. 104/1979 (including suspension from school for up to 5 days) could not be contested before the administrative courts. Only decisions ordering transfer to another school had been held to be quashable by the Supreme Administrative Court (see paragraphs 17 and 49 of the judgment).

Following the finding of violations in these two cases, the judgments of the European Court of Human Rights have been disseminated within the Ministries of Justice and of National Education and Religious Affairs and have also been transmitted to the Supreme Administrative Court. The judgments were also published (in Greek) with comments in *To Syntagma* (1997, p. 995), a journal widely disseminated in legal circles.

The Government considers that, having regard to the dissemination and publication of these judgments and to the recent developments concerning the direct effect of the Convention and of the European Court's case-law in Greek law (as evidenced by Resolution DH (99) 714 in the *Papageorgiou* case and new recent examples from the domestic case-law, notably, judgment 14/1999 of the Court of Cassation (plenary); judgment 954/1999 of the Athens Administrative Court of Appeal; judgment 1141/1999 of the Supreme Administrative Court (first chamber); etc.), domestic courts will not fail to declare admissible future complaints against decisions or-

dering disciplinary sanctions, such as suspension from school, and to quash those decisions if they are unlawful. The lack of specific jurisprudence showing this change in the courts' attitude is only due to the very exceptional nature of such complaints.

The Government therefore considers that there is no risk of new violations similar to those found in the *Efstratiou* and *Valsamis* judgments and that Greece has consequently complied with its obligations under Article 46, paragraph 1 (former Article 53) of the Convention.

Klavdianos v. Greece

Appl. No. 38841/97, admissibility decision
20 September 1999

Resolution ResDH (2001) 97, 23 July 2001

The Committee of Ministers ...

Recalling that ... the Court, seized of the case under Article 5, paragraph 2, of Protocol No. 11, declared admissible the complaint relating to the excessive length of certain proceedings concerning civil rights and obligations before the administrative courts;

Whereas in its judgment of 17 October 2000 the Court, after having taken formal note of a friendly settlement reached by the Government of the respondent state and the applicant, and having satisfied itself that the settlement was based on respect for human rights as defined in the Convention or its Protocols, decided unanimously to strike the case out of its list and took note of the parties' undertaking not to request a re-hearing of the case before the Grand Chamber;

Whereas under the above-mentioned friendly settlement it was agreed that the Government of Greece would pay the applicant, as soon as the judgment was notified, the sum of 2 500 000 drachmas free of tax;

...

Having satisfied itself that on 6 February 2000, the Government of the respondent state had paid the applicant the sum provided for in the friendly settlement and that no other measure was required in the present case to conform to the Court's judgment,

Declares, after having taken note of the information supplied by the Government of Greece, that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case.

Valsamis v. Greece

Appl. No. 21787/93, Commission decision
29 November 1994, Court judgment 18 December 1996

Resolution ResDH (2001) 83, 23 July 2001

No violation of Article 3; no violation of Article 9; no violation of Article 2 of Protocol No. 1; violation of Article 13 taken together with Article 2 of Protocol No. 1; violation of Article 13 taken together with Article 9; non-pecuniary damage – finding of violation sufficient; costs and expenses partial award – Convention proceedings

Finding of violation comparable to that in the *Efstratiou* case, requiring the same measures to avoid similar violations. See appendix to Resolution ResDH (2001) 82, above.

Italy

Arquilla v. Italy

Appl. No. 44374/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 134, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Berrettari v. Italy

Appl. No. 41827/98, admissibility decision
25 May 1999, Court judgment 8 February 2000
Resolution ResDH (2001) 125, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Canzano v. Italy

Appl. No. 44371/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 131, 15 October 2001

Violation of Article 6.1; préjudice moral – réparation pécuniaire ; remboursement partiel frais et dépens – procédure de la Convention

Di Muro v. Italy

Appl. No. 44363/98, admissibility decision 14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 129 du 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Iorio v. Italy

Appl. No. 44376/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 135, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

L.G. III v. Italy

Appl. No. 37188/97, admissibility decision
22 April 1998, Court judgment 2 November 1999

Resolution ResDH (2001) 124 du 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award

Mazzotti v. Italy

Appl. No. 44354/98, admissibility decision
29 September 1999, Court judgment 17 October 2000

Resolution ResDH (2001) 138, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Pagliacci et Marruco v. Italy

Appl. No. 44366/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 130, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Palazzo v. Italy

Appl. No. 44356/98, admissibility decision
28 September 1999, Court judgment 17 October 2000

Resolution ResDH (2001) 127, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Palombo v. Italy

Appl. No. 44358/98, admissibility decision
28 September 1999, Court judgment 17 October 2000

Resolution ResDH (2001) 139, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award

Pareschi v. Italy

Appl. No. 44373/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 133, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Perosino v. Italy

Appl. No. 44372/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 132, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Piscopo v. Italy

Appl. No. 44357/98, admissibility decision
14 December 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 128, 15 October 2001

Violation of Article 6.1; pecuniary damage – claim rejected; non-pecuniary damage – financial award

Porretta v. Italy

Appl. No. 34288/96, Commission decision
16 September 1997, Interim Resolution DH (98) 327

Resolution ResDH (2001) 137, 15 October 2001

Violation of Article 6.1



Scozzari et Giunta v. Italy

Appl. Nos. 39221/98 and 41963/98, Court judgment 13 July 2000, Interim Resolution ResDH (2001) 65

Interim Resolution ResDH (2001) 151, 3 October 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 (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 of 13 July 2000 in the *Scozzari and Giunta* case, in which the Court notably found two violations of Article 8 of the Convention on account, first, 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, secondly, of the placement, uninterrupted to date, of the children in the community *Il Forteto* in the circumstances described in paragraphs 201 to 216 of the judgment, namely:

- the failure of the authorities to provide full and pertinent explanations on the reasons justifying the sending of the children in this community in spite of the elements which made understandable, from an objective standpoint, the first applicant's concerns, namely the fact that certain "Forteto" leaders with serious previous convictions for ill-treatment and sexual abuse of handicapped people placed in the community could still play an active role in bringing up the children ;
- the fact that the implementation of the Youth Court's decisions had been deflected from their intended purpose of allowing visits between the mother and the children to take place as a result of the attitude of the social services and of some of the leaders of *Il Forteto* – including one of the convicted men – who had delayed or hindered the implementation of such decisions and exercised a mounting influence on the children aimed at distancing them from their mother;
- the doubt about who really has effective care of the children ;
- the failure of the relevant authorities, in particular the judiciary, to increase their level of supervision;
- the absence of any time limit on the care order;

Having furthermore regard to Interim Resolution ResDH (2001) 65 adopted by the Committee of Ministers on 29 May 2001, in which the Committee, considering the urgency of the situation, encouraged the Italian and Belgian authorities to implement without delay a proposal submitted by the latter regarding an alternative placement of the children in Belgium where the mother currently lives;

Noting with interest, in this respect, that the Belgian authorities have supple-

mented their earlier proposal so as to organise, after adequate preparation in Italy, contacts between Ms Scozzari and her children in Belgium under the supervision and with the assistance of the competent Belgian authorities;

Having carefully examined the information so far provided by the Italian authorities on the measures taken, since September 2000, to implement the Court's judgment and noting that, after the three preliminary meetings between the mother and her children which took place in March-April 2001, the Florence Youth Court in July 2001 notably authorised further contacts, on a monthly basis, in the presence of persons nominated by the social services from among those never previously involved in the procedure, and confirmed the placement of the children into public care in the Forteto community for an additional period of three years, which could be shortened under specific conditions;

Regretting that, more than one year after the European Court's judgment, the latter has still not been fully executed; in fact, several problems at the basis of the Court's finding of a violation in respect of the placement in the Forteto community have not been remedied;

Noting that the Italian authorities, on account of the above-mentioned shortcomings, have undertaken to give full effect to the Court's judgment without delay;

Invites the Italian authorities rapidly to take concrete and effective measures in order to prevent that the children be irreversibly separated from their mother and to ensure that their placement respect the superior interests of the children and the mother's rights, as defined by the Court in its judgment;

Encourages the Italian authorities in particular to reinforce their contacts with the Belgian authorities with a view to organising meetings very quickly between mother and children at a neutral location, pursuant to the decision of the Florence Youth Court,

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

Senese v. Italy

Appl. No. 43295/98, admissibility decision 5 October 1999, Court judgment 21 November 2000

Resolution ResDH (2001) 126, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award

Silveri v. Italy

Appl. No. 44353/98, admissibility decision 28 September 1999, Court judgment 17 October 2000

Resolution ResDH (2001) 140, 15 October 2001

Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Stritzel v. Italy

Appl. No. 39172/98, Commission decision 15 September 1998, Interim Resolution (99) 641

Final Resolution ResDH (2001) 136, 15 November 2001

Violation of Article 6.1

Excessive length of judicial proceedings in Italy

In conformity with Interim Resolution ResDH (2000) 135 adopted in October 2000 (see *Bulletin* No. 51), the Committee of Ministers made a preliminary examination of the first annual report provided by the Italian authorities on the adoption by Italy of measures aiming at remedying the problem of excessive length of judicial proceedings.

The Committee welcomed the progress made and considered that further information was necessary before proceeding to a more detailed evaluation of the implementation of these measures.

It also noted the fact that a new law (the "Pinto Act") had been adopted to compensate the victims of excessively long proceedings. However, concern was expressed at the fact that this legislation does not foresee the speeding up of the proceedings and that its application poses a risk of aggravating the backlog of the appeal courts.

It accordingly decided to resume consideration of this question in February 2002, in the light of supplementary information which will be supplied by Italy.

Poland

Witold Litwa v. Poland

Appl. No. 26629/95, Commission decision 15 September 1997, Court judgment 4 April 2000

Resolution ResDH (2001) 141, 15 October 2001

The Committee of Ministers ...

Recalling that the case originated in an application (No. 26629/95) against Poland, lodged with the European Commission of Human Rights on 6 August 1994 under former Article 25 of the Convention by Mr Witold Litwa, a Polish national, and that the Commission declared admissible the complaint that his detention in a "sobering-up centre" was unlawful and arbitrary;

...
Whereas in its judgment of 4 April 2000 the Court:

- held, by six votes to one, that there had been a violation of Article 5, paragraph 1, of the Convention;
- held, unanimously, that the government of the respondent state was to pay the applicant, within three months, 8 000 Polish zlotys in respect of non-pecuniary damage; 15 000 Polish zlotys in respect of costs and expenses together with any value-added tax that may be chargeable, less 13 174 French francs to be converted into Polish zlotys at the exchange rate applicable at the date of delivery of the judgment and that sim-

ple interest at an annual rate of 21% would be payable on those sums from the expiry of the above-mentioned three months until settlement;

- dismissed, unanimously, the remainder of the applicant's claim for just satisfaction;

...

Whereas during the examination of the case by the Committee of Ministers, the government of the respondent state drew the Committee's attention to the fact that, on account of the specific circumstances of the case, new similar violations of the Convention could be avoided for the future by informing the authorities concerned of the requirements of the Convention: copies of the judgment translated into Polish had accordingly been sent out to the police and staff of all sobering-up centres under the supervision of local self-governments, together with a circular letter from the Ministry of Internal Affairs; in addition, the Court's judgment has been published in the Bulletin of the Council of Europe;

Having satisfied itself that on 2 June 2000, within the time-limit set, the government of the respondent state had paid the applicant the sums provided for in the judgment of 4 April 2000,

Declares, after having taken note of the information supplied by the Government of Poland, that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case.

Violation of Art. 5-1 ; Pecuniary damage - claim rejected ; Non-pecuniary damage - financial award ; Costs and expenses partial award - Convention proceedings

Portugal

Barbosa Araujo v. Portugal

Appl. No. 39110/97, admissibility decision
23 March 2000

Resolution ResDH (2001) 146, 15 October 2001

Article 6.1: friendly settlement

Montez Champalimaud, Lda v. Portugal

Appl. No. 37792/97, admissibility decisions
20 May 1998 and 13 January 2000

Resolution ResDH (2001) 147, 15 October 2001

Article 6.1: friendly settlement

Ribeiro Ferreira Ruah I v. Portugal

Appl. No. 38327/97, admissibility decision
9 March 2000

Resolution ResDH (2001) 104, 23 July 2001

Article 6.1: friendly settlement

Slovakia

Bánošová v. Slovakia

Appl. No. 38798/97, admissibility decisions
24 August 1999 and 27 April 2000

Resolution ResDH (2001) 148, 15 October 2001

Article 6.1: friendly settlement

Čapčíková v. Slovakia

Appl. No. 38853/97, admissibility decision
6 April 2000

Resolution ResDH (2001) 149, 15 October 2001

Article 6.1: friendly settlement

Spain

Pérez de Rada Cavanilles v. Spain

Appl. No. 28090/95, Court judgment 28 October 1998

Resolution ResDH (2001) 84, 23 July 2001

Violation of Article 6.1; non-pecuniary damage – finding of violation sufficient; costs and expenses partial award – Convention proceedings; Article 6 applicable

Turkey

Bekdemir v. Turkey

Appl. No. 31853/96, admissibility decisions
9 April 1997 and 31 August 1999

Resolution ResDH (2001) 98, 23 July 2001

Article 6.1: friendly settlement

Bubilik v. Turkey

Appl. No. 24718/94, Commission decision
7 April 1997, Interim Resolution DH (2000) 24

Final Resolution ResDH (2001) 86, 23 July 2001

Violation of Article 1 of Protocol No. 1

Gelgeç and Özdemir v. Turkey

Appl. No. 27700/95, admissibility decisions
13 May 1996 and 27 April 2000

Resolution ResDH (2001) 150, 15 October 2001

Article 3: friendly settlement

Kiliç Kalkan v. Turkey

Appl. No. 34687/96, admissibility decision
5 December 2000

Resolution ResDH (2001) 99, 23 July 2001

Article 6.1: friendly settlement

Ozcan v. Turkey

Appl. No. 31831/96, admissibility decisions
9 April 1997 and 31 August 1999

Resolution ResDH (2001) 100, 23 July 2001

Article 6.1: friendly settlement

Aksoy Ibrahim v. Turkey

Arslan v. Turkey

Aslantaş v. Turkey

Başkaya et Okçuoğlu v. Turkey

Ceylan v. Turkey

Erdoğan v. Turkey

Erdoğan et Ince v. Turkey

Gerger v. Turkey

Incal v. Turkey

Karataş v. Turkey

Okçuoğlu v. Turkey

Özgür Gündem v. Turkey

Öztürk v. Turkey

Polat (E.P.) v. Turkey

Şener v. Turkey

Süreç et Özdemir v. Turkey

Süreç II v. Turkey

Süreç IV v. Turkey

Court judgments 9 June 1998, 8 July 1999, 28 September 1999, 16 March 2000, 15 June 2000, 18 July 2000 and 10 October 2000, and Interim Resolution DH (99) 560

Interim Resolution ResDH (2001) 106, 23 July 2001

Violations of freedom of expression in Turkey: individual measures

The Committee of Ministers, under the terms of former Articles 32 and 54 as well as of new 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 judgments of the European Court of Human Rights transmitted to it for supervision of execution and to its decisions in the above-mentioned cases concerning Turkey;

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

Recalling that, in all these cases, the Court or the Committee of Ministers have notably found that the criminal convictions of the applicants, on account of statements contained in articles, books, leaflets or messages addressed to, or prepared for, a public audience, had violated their freedom of expression guaranteed by Article 10 of the Convention;

Having been informed that a comprehensive programme of reforms has been drawn up with a view to aligning, in the short-term, Turkish law and practice with the Convention's requirements in the field of freedom of expression, in order to prevent new violations similar to those found in these cases;

Considering however that, in most of these cases, the convictions are still in the criminal records of the applicants and restrictions of their civil and political rights remain in place;

Stressing the obligation of every State, under Article 46, paragraph 1, of the Convention, to abide by the judgments of the Court, including the adoption of individual measures putting an end to the violations found and removing as far as possible their effects;

Having regularly invited the Government of Turkey, since it examined the first of these cases in 1998, to inform it of the measures taken by the Turkish authorities in order to comply with the above-mentioned obligation;

Noting that, according to the Turkish Government, a reform of the Code of Criminal Procedure would be necessary to reopen the impugned proceedings and redress the violations;

Regretting that such a reform, announced in September 1999 by the Minister of Foreign Affairs of Turkey, is still not foreseen for the immediate future and that, as yet, no *ad hoc* measures have been taken



pending the adoption of the aforementioned reform;

Urges the Turkish authorities, without further delay, to take *ad hoc* measures allowing the consequences of the applicants' convictions contrary to the Convention in the above-mentioned cases to be rapidly and fully erased and decides to resume consideration of these cases at each of its meetings until the adoption of the individual measures required;

Encourages the Turkish authorities to bring to a successful conclusion the comprehensive reforms planned to bring Turkish law into conformity with the requirements of Article 10 of the Convention.

Turanli and Others, Topçu and Others, Tirtiklioğlu, Karaçelik and Others, Karagöz, Duman and Akin v. Turkey

Appl. Nos. 26121/95 to 26127/95, Commission decision 7 April 1997, Interim Resolution DH (99) 472

Final Resolution ResDH (2001) 87, 23 July 2001

Violations of Article 1 of Protocol No. 1

V.N.K. and 44 others v. Turkey

Appl. Nos. 29888/96, 29889/96, 29890/96, 29891/96, 29892/96, 29893/96, 29894/96, 29895/96 and 29896/96, admissibility decision 29 February 2000

Resolution ResDH (2001) 85, 23 July 2001

Article 1 of Protocol No. 1: friendly settlement

United Kingdom

Ainsworth v. the United Kingdom

Appl. No. 35095/97, admissibility decision 22 October 1998, Interim Resolution ResDH (2000) 85

Final Resolution ResDH (2001) 121, 15 October 2001

Violation of Article 6.1

Chahal v. the United Kingdom

Appl. No. 22414/93, Commission decision 1 September 1994, Court judgment 15 November 1996

Resolution ResDH (2001) 119, 15 October 2001

Violation of Article 3; violation of Article 5.4; violation of Article 13; no violation of Article 5.1; not necessary to examine Article 8; non-pecuniary damage – finding of violation sufficient; costs and expenses partial award – Convention proceedings

Appendix to Resolution ResDH (2001) 119

Information provided by the Government of the United Kingdom during the examination of the Chahal case by the Committee of Ministers

The Government of the United Kingdom recalls that, in order to give effect to the judgment of the European Court of Human Rights, the first applicant was released on 15 November 1996 and his deportation order revoked. He has remained in the United Kingdom on the basis of the indefinite leave to

remain granted in 1974. Payment of the just satisfaction took place on 5 February 1997, within the time-limit set.

As an interim measure, the government also ensured that the practice in deportation cases was rapidly adapted to the requirements of Article 3 of the Convention as set out in the Court's judgment in the present case. The judgment has also been published in different fora (e.g. (1996) 23 EHRR 413, *The Times Law Reports*, etc.)

In order to ensure compliance with the requirements of Article 3 combined with Article 13, a number of legal amendments have been introduced in the Special Immigration Appeals Commission (SIAC) Act 1997, which came into force on 3 August 1998. This Act establishes a Special Immigration Appeals Commission which is of a judicial nature and is constituted on an *ad hoc* basis when cases arise. It consists of thirteen members who are appointed by the Lord Chancellor as he may determine. Ten of them are legal members who retain the terms and conditions of service relating to their judicial posts and three of them are lay members who are required to have experience of security matters and are appointed for an initial three years' term which is renewable. It is duly constituted if it consists of three members of whom at least one holds or has held high judicial office (within the meaning of the Appellate Jurisdiction Act 1876), and at least one is or has been appointed as chief adjudicator under paragraph 1 of Schedule 5 to the Immigration Act 1971, or a member of the Immigration Appeal Tribunal qualified as mentioned in paragraph 7 of that Schedule. The rules of procedure of this Commission are determined by the Procedure Rules, which came into force on 31 July 1998.

Under the new Act, a person may appeal to the Special Immigration Appeals Commission against a decision to make a deportation order against him if the grounds of the decision are that his deportation is conducive to the public good as being in the interest of national security.

Appeals from the Special Immigration Appeals Commission can be made on a question of law to the Court of Appeal. In a recent case the Court of Appeal has confirmed that the Commission has full "merits" review jurisdiction (i.e. on questions both of fact and of law) over the Home Secretary's decisions in this field (*Home Secretary v. Rehman* (2000) 3 All ER 778).

The Procedure Rules include provision for the right of the appellant to be legally represented and for a "special advocate" to be appointed to represent the interests of the appellant when the Secretary of State intends to oppose the appeal or to object to the disclosure of material to the appellant. In the last case, the Secretary of State must state the reasons for the objection and provide the appellant and the special advocate with a statement of that material in a form which can be shown to the appellant. These rules also provide that, despite its general duty to secure that information is not dis-

closed contrary to the interest of national security, the Special Immigration Appeals Commission must satisfy itself that the material available to it enables it properly to review decisions. For this purpose, where it considers it necessary for the appellant and his representative to be excluded from the proceedings, it shall, before it makes a determination, give the appellant a summary of the submissions and evidence received in his absence.

The government finds that, after the entry into force of the new legislation, the Special Immigration Appeals Commission can consider the evidence on which the Secretary of State based his decision that the appellant constitutes a danger to national security and undertake an evaluation of the Article 3 risks. Furthermore, the new legislation offers sufficient procedural safeguards for the new remedy to comply with Article 13 of the Convention.

Moreover, the government points out that when a decision affecting in general a person's entitlement to enter or remain in the United Kingdom is based on grounds other than national security, the Immigration and Asylum Act 1999 creates a new right of appeal to an adjudicator or the Immigration Appeal Tribunal on human rights grounds. This right is available against decisions which are alleged to be unlawful as incompatible with a Convention right under section 6 (1) of the Human Rights Act 1998. The adjudicator or the Tribunal has the power to consider, and allow the appeal on the basis of, any relevant human rights issues which arise. The Act also confers jurisdiction on the Special Immigration Appeals Commission to consider human rights questions in appeals against decisions of the Secretary of State linked with the interest of the national security. A person will not be required to leave the United Kingdom if an appeal on human rights grounds is pending. It does not prevent the actual giving of directions for removal or the making of a deportation order, but such actions will not have effect during this period.

As regards the issues raised under Article 5, paragraph 4, and Article 3 of the Convention, these have been solved by the Human Rights Act 1998, which came into force on October 2000 and incorporates the European Convention on Human Rights in the United Kingdom's law, having as its main purpose the giving of further effect to rights and freedoms guaranteed under the Convention. The main elements of the Act are the following:

According to this Act, so far as possible, primary and subordinate legislation must be read and given effect in a way compatible with the Convention rights.

A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any relevant judgment, decision, declaration or advisory opinion of the European Court, the former European Commission of Human Rights or the Committee of Ministers of the

Council of Europe. Certain superior courts may make a declaration of incompatibility with a Convention right, in respect of a provision of primary or secondary legislation (this declaration not affecting the validity of the legislation and not binding the parties to the relevant proceedings).

It is also unlawful for a public authority (a court or tribunal and any person with functions of a public nature) to act in a way incompatible with a Convention right.

The victim of such an unlawful act may either bring proceedings against the authority in the appropriate court or tribunal or rely on the right or rights concerned in any legal proceedings. Furthermore, the Human Rights Act 1998 enables the jurisdiction of any tribunal to be extended by order to allow it to provide an appropriate remedy in relation to an act of a public authority which is unlawful. Damages may be awarded if the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made. Proceedings against a judicial act may be brought by exercising a right of appeal, on application for judicial review or in a forum prescribed by rules. In these proceedings, the Act provides expressly a right for compensation under Article 5, paragraph 5, of the Convention. Finally, it enables the amendment by order of a provision of legislation which, in view of a finding of the European Court, appears to a Minister to be incompatible with the Convention, so as to remove the incompatibility.

As regards specifically the violation of Article 3 of the Convention, this Act follows up and completes the interim measures taken immediately after the European Court's judgment. After its entry into force, where a deportation case raises an issue under Article 3 of the Convention, the issue is considered by the Secretary of State and (in the event of an appeal against his deci-

sion) by the Special Immigration Appeals Commission on the basis of the risks of treatment contrary to Article 3 and without reference to other considerations such as national security.

As to the violation of Article 5, paragraph 4, of the Convention, the proceedings for *habeas corpus* and for judicial review of the decision to detain pending deportation are subject to the provisions of Human Rights Act: the detained person is entitled to a review of his or her detention in the light of the Convention and therefore these proceedings must provide an adequate control of the conditions which are essential for "lawful" detention under Article 5, paragraph 4, of the Convention and particularly if it is justified on national security grounds. It mentions in addition that the Special Immigration Appeals Commission has a bail jurisdiction in cases where a person is detained in the interest of national security.

The Government of the United Kingdom considers that the measures taken will prevent the repetition of any new violations similar to those found in this case and that the United Kingdom has therefore fulfilled its obligations under former Article 53 of the Convention.

Downing v. the United Kingdom

Appl. No. 36525/97, admissibility decision
29 June 1999

Resolution ResDH (2001) 105, 23 July 2001

Article 5: friendly settlement

McGonnell v. the United Kingdom

Appl. No. 28488/95, Commission decision
22 January 1998, Court judgment 8 February 2000

Resolution ResDH (2001) 120, 15 October 2001

Preliminary objection rejected (estoppel);
violation of Article 6.1; non-pecuniary damage
– finding of violation sufficient

Appendix

to Resolution ResDH (2001) 120

Information provided by the Government of the United Kingdom during the examination of the McGonnell case by the Committee of Ministers

The Royal Court in Guernsey adopted a Practice Direction No. 1 of 2001 formalising and extending the recent informal practice as regards administrative proceedings after the judgment of the European Court of Human Rights in this case with effect from 31 May 2000, the Bailiff is no longer either the President or a member of three committees, namely the Appointments Board, the Legislation Committee and the Rules of Procedure Committee.

At the same time, at the commencement of the hearing of any administrative proceedings, Counsel for all parties will be required to state whether their respective clients have any objection to the presiding judge sitting in that particular case, and if so, the grounds for such objection. It is, therefore, incumbent upon Counsel prior to the hearing to have obtained full instructions in this regard.

To enable Counsel to obtain satisfactory instructions, the presiding judge will inform them in writing, prior to the hearing, of the judge's recollection of this previous involvement, in any way, in the issues to be considered or determined by the Court.

The Government of the United Kingdom also informed the Committee of Ministers' that the judgment of the European Court had been transmitted to all authorities directly concerned, apart from a large diffusion notably in the local press (the *Guernsey Globe* and *Guernsey Press*) as well as in widely distributed series of law reports.

The government considers, in view of these measures, that it has met its obligations under Article 46, paragraph 1, of the Convention.



Law and policy: intergovernmental co-operation in the human rights field

One of the Council of Europe's vital tasks in the field of human rights is the creation of legal policies and instruments. In this, the Steering Committee on Human Rights (CDDH) plays an important role. The CDDH is the principal intergovernmental organ answerable to the Committee of Ministers in this area, and to its different expert committees.

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

At its 28th meeting, the DH-DEV finalised its 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 finalised 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 approval and transmission to the Committee of Ministers.

The DH-DEV also held an exchange of views with the expert consultant who was preparing a feasibility study on the question of the protection of human rights during armed conflict as well as during internal disturbances and tensions as a result of terrorist acts. The Committee expressed the wish to resume consideration of the issue, once the CDDH has taken a position on the follow-up to be given to the study.

The actors

a steering committee

The CDDH, Steering Committee for Human Rights, is the intergovernmental co-operation body in charge of the Committee of Ministers' policy implementation in the human rights field. It has a bureau, the CDDH-BU, a Reflection Group, the CDDH-GR, and smaller, more specialised sub-committees.

the committees of experts

Some of these sub-committees have long-term mandates which are regularly renewed. For example:

- the DH-DEV, Committee of Experts for the Development of Human Rights
- the DH-PR, Committee of Experts for the Improvement of Procedures for the Protection of Human Rights.

the groups of specialists

Other sub-committees are of a less permanent nature; they are dissolved once their particular function has been fulfilled. Ad hoc sub-committees:

- the DH-S-AC, Group of Specialists on Access to Official Information.

working groups

The CDDH also sets up working groups, mainly to advance work on a particular item of the agenda in the period between any two plenary meetings.

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 year. It prepared an Activity Report, containing a list of proposals/ideas which were retained as a result of its work.

The CDDH transmitted this report, for consideration, to the Evaluation Group which was set up by the Ministers' Deputies in February 2001 to make proposals on the means of guaranteeing the continued effectiveness of the European Court of Human Rights.

The Evaluation Group published its report in which it calls on member states to take immediate and urgent action in order to safeguard the Court's credibility and authority, including:

- effective measures at national level, given the subsidiary role of the Strasbourg Court
- prompt and full execution of the Court's judgments and
- substantial increase in staff and resources for the Court as well as more staff for the supervision of execution of judgments.

The Group also recommends amending the European Convention on Human Rights, *inter alia*, to permit the Court

not to undertake a detailed examination of applications which raise no substantial issue.

The full report of the Evaluation Group (to which the report of the Reflection Group is appended) is available to the public and can be found on the Committee of Ministers web site (<http://www.coe.int/cm/>).

The Committee of Ministers will take first decisions following the report of the Evaluation Group in its session on 8 November 2001.

Publications

The contribution of the Council of Europe to the UN Secretary General's report on progress made to the implementation of the Vienna Declaration and Programme of Action, after the World Conference in 1993

H (2001) 5

The Secretariat of the Human Rights Law and Policy Division prepared, in English and French, an updated version of a document prepared in 1998 (H (98) 6).

Proceedings of the 6th Round Table with the European Ombudsmen (Malta, 7-9 October 1998)

H (98) 19

Published in November 2001, in English and French. The themes addressed were: the rights of refugees and asylum-seekers; the rights of persons deprived of their liberty; co-operation between Ombudsmen of member states and between them and the Council of Europe, particularly in the light of new developments in the human rights mechanisms of the Council of Europe.

European Social Charter

The 1961 European Social Charter, supplemented by the 1996 revised Social Charter, is a complementary text to the European Convention on Human Rights in the field of social rights.

Thirty member states are bound by either the Social Charter or the Revised Social Charter: Austria, Belgium, the Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Iceland, Luxembourg, Malta, the Netherlands, Poland, Slovakia, Spain, Turkey, the United Kingdom, Bulgaria, Cyprus, Estonia, France, Ireland, Italy, Lithuania, Moldova, Norway, Portugal, Romania, Slovenia and Sweden.

Albania, Andorra, Armenia, Azerbaijan, Croatia, Georgia, Latvia, Liechtenstein, Russian Federation, San Marino, Switzerland, “the former Yugoslav Republic of Macedonia” and Ukraine have signed the 1961 Charter or the 1996 revised Charter, although they have not yet ratified.

For further information see the “Simplified chart of signatures and ratifications of European human rights treaties”, p. 38.

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.

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.

Two sessions were held in Strasbourg during the period under review:

- 179th session: 10-14 September 2001;
- 180th session: 15-19 October 2001.

New members elected by the Committee of Ministers on 4 July 2001 are:

- Mr K. Grillberger (Austrian) (Vice-President),
- Mrs P. Koncar (Slovenian),
- Mr G. Quinn (Irish).

Examination of national reports

Cycle XVI-1: The ECSR began its assessment of national reports under the first part of the new cycle which concerns the hard core provisions. First reports being examined in respect of the revised Charter were submitted by France, Italy, Romania, Slovenia and Sweden. The text of these reports can be found on the Social Charter Internet site: www.esc.coe.int.

On 10 July 2001, the European Committee of Social Rights published conclusions for Cyprus, Germany, Luxembourg, Malta, Turkey and, for the first time, Slovakia.

The monitoring exercise – part of regular procedures carried out to make sure that countries respect the Social

Charter – revealed situations not in conformity with the Charter in all six countries.

The Committee also welcomed moves by Cyprus, Germany, Luxembourg and Turkey to put right problems that have been criticised in the past.

Amongst problems highlighted by the Committee were:

- **Cyprus:** the possibility of court-ordered reinstatement for women unlawfully dismissed does not cover enterprises with less than twenty employees.
- **Germany:** there are still complex formalities for the delivery and renewal of work permits and residence permits for nationals of states party to the Charter but not members of the European Union.
- **Luxembourg:** the length of working time provided for by law during the reference period was excessive.
- **Malta:** compulsory postnatal leave is not adequate in light of the Charter; some groups of workers (workers related to their employer, part-time workers) are not protected against dismissal during maternity leave.
- **Slovakia:** the concept of equal pay for work of equal value is not expressly incorporated into national law; Slovak law sets a very low resources ceiling for the payment of family benefits, with the result that a manifestly inadequate number of persons are entitled to it. This effectively negates the very existence of the family branch of social security.
- **Turkey:** during the reference period (1995-1998), a substantial number of children worked in certain sectors of the economy and did not attend school; the manifest inadequacy of the health service budget, as well as the inadequacy in equipment and staffing levels are such that the population, and in particular children, does not have access to a good level of health in all parts of the country; the minimum length of prison sentences for young offenders, in the case of serious offences, is excessive.

The Committee welcomed improvements in **Cyprus** where a law passed on 9 July 1999 extended the ban on night work by young persons in industry to all sectors; in **Germany**, where differences in treatment between children born within or outside marriage have been abolished; in **Luxembourg**, where a law passed on 7 July 1998 prevents dismissal during maternity leave; in **Turkey** where the length of compulsory schooling was lengthened to eight years in 1997.

Examination by the Committee of Social Rights, composed of independent experts, is the first phase of the monitoring process carried out to make sure countries respect their Social Charter commitments.

The text of the conclusions, a summary of the situation in each country and a full explanation of the process are also available on the Internet site: www.humanrights.coe.int/cseweb

Collective complaints

During their 99th meeting held from 22-26 October 2001, the Governmental Committee of the European Social Charter reviewed the matter of renewing the names of those organisations entered on the list of NGOs entitled to submit collective complaints who had been on the list for four years.

Furthermore, during the same meeting, the Committee agreed to admit a new NGO onto the collective complaints list bringing the present total to 51.

Decisions

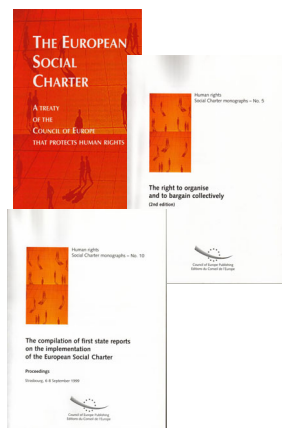
At the ECSR's 180th session, the ECSR adopted its decision on the merits of complaint No. 10/2000, Tehy ry and STTK ry v. Finland and transmitted to the Committee of Ministers in a report.

During the same meeting, the ECSR declared Complaint No. 11/2001 lodged by the European Council of Police Trade Unions v. Portugal admissible. This complaint had been registered on 18 July 2001.

Publications

- **The European Social Charter – A treaty of the Council of Europe that protects Human Rights**
(Available in Bulgarian, English, French, German, Greek, Italian, Portuguese and Russian)

- **Monograph No. 5: The right to organise and to bargain collectively (2nd edition) – Study drawn up on the basis of the case law of the European Social Charter**
(available in English only)
92-871-4707-8



- **Monograph No. 10: The compilation of first state reports on the implementation of the European Social Charter, Proceedings, Strasbourg, 6-8 September 1999**
(available in English and French)
92-871-4632-2

- **Monograph No. 11: The protection of fundamental social rights in Europe through the European Social Charter, Proceedings, Sofia (Bulgaria), 5-7 July 2000**
(available in English and French)
92-871-4620-9

Conferences, seminars, meetings, workshops, training programmes

- **Conference (Barcelona, 31 July-4 August 2001)**
Aspects of the Charter were presented at the 14th Biennial Conference of the World Council for gifted and talented children, an event co-organised by the NGO EUROTALENT which holds consultative status with the Council of Europe and appears on the list of NGOs entitled to submit collective complaints.
- **Seminar (Vilnius, 4-5 October 2001)**
Following ratification of the revised Charter, a seminar was held in Vilnius to provide ministry officials with information and assistance in the preparation of Lithuania's first national report.

40th anniversary of the European Social Charter

A ceremony in honour of the 40th anniversary of the European Social Charter was held in Strasbourg on 18 October 2001. This official occasion, brought together Committee members, representatives of the European Court of Human Rights, Parliamentary Assembly and Committee of Ministers. The occasion was marked by the signature, by Armenia, Azerbaijan and San Marino of the revised European Social Charter. This historical event thus took on particular significance as the addition of these three signatures brought the number of signatory states to the 1961 Charter or the revised Charter to 43, in other words the full complement of Council of Europe member states.

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

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 July and 31 October 2001 the CPT carried out visits to places and published reports as detailed below.

Visits

Albania

(22 to 26 October 2001)

A delegation of the CPT has recently carried out a five-day ad hoc visit to Albania. It was the Committee's fourth visit to Albania.

In the course of its visit, the CPT's delegation met Sokol Azizi, Deputy Minister of Justice, Petrit Vasili, Deputy Minister of Health, Fatmir Brahimi, Director General of Hospitals, and Bilbil Memi, Director General of the Police. The delegation held also talks with Arben Rakipi, Prosecutor General, and Ermir Dobjani, Ombudsman.

The aim of the visit was, on one hand, to examine the implementation in practice of the recommendations concerning Vlora Psychiatric Hospital made by the CPT after its December 2000 periodic visit and, on the other hand, to examine the treatment of persons deprived of their liberty by law enforcement agencies. For this purpose, the delegation visited several police establishments and also interviewed a great number of persons who had recently been in police custody. In addition, the delegation reviewed specific police-related issues which had been the subject of recommendations following the December 2000 visit.

The delegation visited the following establishments:

- Police Stations Nos. 1, 3 and 4, Tirana
- Vlora Police Station

– Vlora Psychiatric Hospital

The delegation also went to the medical service and remand section of Prison No. 313, as well as to the Prison Hospital, in Tirana, in order to gather further information relating to deprivation of liberty by the police.

“The former Yugoslav Republic of Macedonia”

(21 to 26 October 2001)

A delegation of the CPT has recently carried out a six-day ad hoc visit to “the former Yugoslav Republic of Macedonia”. The visit began on 21 October 2001. It was the Committee's second visit to “the former Yugoslav Republic of Macedonia”¹.

In the course of its visit, the delegation met Ilinka Mitreva, the Minister for Foreign Affairs, as well as senior officials from the Ministries of Justice, the Interior, and Foreign Affairs. It also met three judges from the Supreme Court – Fidanco Stoev, Liljana Ristova-Ingilizova, and Aleksandar Bošnjakovski – as well as the Prosecutor-General, Stavre Džikov.

The principal purpose of the visit was to examine the treatment of persons deprived of their liberty by the law enforcement agencies (Ministry of the Interior), an issue which had recently been the subject of close consultations between the CPT and the national authorities. The delegation visited several police establishments and also interviewed many persons who had recently been in police custody. In addition, the delegation reviewed specific police-related issues which had been the subject of recommendations following the CPT's first visit to “the former Yugoslav Republic of Macedonia”, and examined the efficacy of existing legal remedies in cases involving allegations of ill-treatment.

The delegation visited the following establishments under the authority of the Ministry of the Interior:

- Kočani Police Station
- Kumanovo Police Station
- Bit Pazar Police Station, Skopje
- Čair Police Station, Skopje
- Centar Police Station, Skopje
- Gazi Baba Police Station, Skopje
- Karpoš Police Station, Skopje
- Kisela Voda Police Station, Skopje
- Štip Police Station
- Tetovo Police Station

The delegation also went to the remand sections of Skopje and Štip Prisons in order to gather further information relating to deprivation of liberty by the police.

1. The report on the CPT's first visit to “the former Yugoslav Republic of Macedonia” (17 to 28 May 1998) and the Government's responses were published on 11 October 2001.

Romania*(22 to 26 October 2001)*

A delegation of the CPT recently carried out a five-day visit to Romania. It was the Committee's third visit to Romania.

The purpose of the visit was to examine the situation of children placed by public authorities in centres run by the National Authority for Child Protection and Adoption and by the State Secretariat for Handicapped Persons.

The delegation visited the following places:

Constanta Region

- Placement Centre for Handicapped Children, Negru Voda

Vaslui Region

- Giurcani Placement Centre
- Husi Placement Centre

During the visit, the CPT's delegation held discussions with Rodica Mihaela Stanoiu, Minister for Justice and Ioan Alexandru, Secretary of State for Justice, Vali Botezatu, Under-Secretary of State for Child Protection and Adoption, Ioan Buraga, Deputy Director General of Medical Assistance, Ministry of Health and Family, Mihaela Alexe, Counsellor at the State Secretariat for Handicapped Persons and Liliana Preotesa, Director General for primary and secondary Education, Ministry of Education and Research.

Greece*(23 September to 7 October 2001)*

A delegation of the CPT carried out a two-week visit to Greece. The visit was carried out within the framework of the CPT's programme of periodic visits for the year 2001. It was the Committee's third periodic visit to Greece.

In the course of this visit, the CPT's delegation held consultations with Michalis Stathopoulos, Minister for Justice, Prodromos Asemiades, General Secretary of the Ministry of Justice and Demetris Efstathiades, General Secretary of the Ministry of Public Order. The delegation also met George Kaminis, Deputy Ombudsman responsible for human rights.

The CPT's delegation reviewed developments concerning the treatment of persons deprived of their liberty by law enforcement agencies and conditions of detention in prison. It paid particular attention to the situation of persons held under aliens legislation.

The delegation visited the following places:

- Law enforcement agencies
- Establishments under the authority of the Ministry of Public Order*

Attica Region

- Attica and Athens Police Headquarters
- Kypseli Police Station, Athens
- Piraeus Police Headquarters
- Drapetzona Police Station, Piraeus
- Nikea Police Station, Piraeus
- Amigdaleza Holding Centre for Aliens
- Hellenikon Holding Centre for Aliens
- Piraeus Holding Centre for Aliens
- Athens Transfer Centre

- Piraeus Transfer Centre
- Athens Airport Police Station

Crete

- Iraklion Regional Police Headquarters
- Iraklion Security Subdirectorates
- Agia Varvara Police Station
- Agios Myronas Police Station
- Chersonissos Police Station
- Myres Police Station
- Iraklion Airport Police Station
- Khandia Police Headquarters

North-West Greece

- Igoumenitsa Police Headquarters
- Kastoria Police Headquarters
- Kozani Police Headquarters
- Kristalopigi Police Station and Border Guard Post
- Mesopotamia Border Guard Post

Establishments under the authority of the Ministry of Merchant Marine

- Iraklion Port Police Station
- Piraeus Port Police Station

Establishments under the authority of the Ministry of Finance

- Kristalopigi Customs Detention Facilities
- Prisons
 - Alicarnassos Prison, Iraklion
 - Khandia Prison
 - Korydallos Prison Complex (Prison for men, and General and Psychiatric Hospitals)
 - Malandrino Prison
- Military Establishments
 - Disciplinary detention facilities at the Infantry Cadet Officer Academy, Iraklion
 - Disciplinary detention facilities at the 15th Brigade of the Army, Kastoria.

Slovenia*(16 to 27 September 2001)*

The visit 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 Slovenia, the previous visit having taken place in 1995¹.

In the course of this second visit, the CPT's delegation held consultations with Rado Bohinc, Minister of Interior, Ivan Bizjak, Minister of Justice and Dušan Keber, Minister of Health. The delegation also met Dušan Valentinčič, Director of the Prison Administration, Andrej Anžič, Deputy Director General of the Police, Luj Šprohar, Director of the Office for the Disabled and Chronically Ill, and Žarko Bogunovič, Acting Director of the Office for Immigration and Refugees. Further, it had a meeting with the Ombudsman, Matjaž Hanžek.

In the course 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. Issues tackled for the first time in Slovenia included the



situation of persons held under aliens legislation and the treatment of persons placed in psychiatric institutions.

The delegation visited the following places:

- Police establishments
 - Celje Police Station
 - Police Detention Facility, Ljubljanska Street, Celje
 - Gornja Radgona Police Station
 - Ilirska Bistrica Police Station
 - Ljubljana-Bežigrad Police Station
 - Ljubljana-Center Police Station
 - Ljubljana-Polje Police Station
 - Ljubljana-Vič Police Station
 - Police Detention Facility, Povšetova Street, Ljubljana
 - Maribor I Police Station
 - Murska Sobota Police Station
 - Novo Mesto Police Station
 - Ptuj Police Station
 - Rogaška Slatina Border Police Station
 - Šentilj Border Police Station
 - Detention Centre for Foreigners (COT), Ljubljana
 - Detention Centre for Foreigners (COT), Postojna
 - Prisons
 - Dob Prison
 - Ljubljana Prison
 - Maribor Prison
- Psychiatric establishments
- Hrastovec-Trate Institute for the Treatment of
- Mental and Nervous Disorders
 - Psychiatric Department of Maribor General Hospital.

Turkey

(2 to 16 September 2001)

A delegation of the CPT has recently carried out a two-week periodic visit to Turkey. The visit started simultaneously in Ankara and Istanbul on Sunday, 2 September 2001. It was the Committee's twelfth visit to Turkey.

In the course of the visit, the CPT's delegation met Mr Hikmet Sami Türk, Minister for Justice, Mr Rüştü Kazım Yücelen, Minister for the Interior, and Mr Nejat Arseven, Minister of State responsible for Human Rights. Further, it held consultations with senior officials from the Ministries of Justice, the Interior, Foreign Affairs, National Defence and Health. Discussions were also held with members of the Human Rights Association in Ankara, as well as with representatives of the Association's branches in Elâzığ, Istanbul, Şanlıurfa and Van.

The delegation reviewed the treatment and physical conditions of detention of persons deprived of their liberty by law enforcement agencies, including persons held under aliens legislation. It also visited two F-type prisons, in order to examine the implementation of communal activity pro-

grammes for prisoners held in such establishments. Another issue focussed upon by the delegation was the treatment of juveniles, in both reformatories and closed prison establishments. Further, a follow-up visit was made to Imralı Prison (first visited in March 1999) in order to review the conditions of detention of Abdullah Öcalan, the establishment's sole inmate.

The delegation visited the following places:

- Law enforcement agencies
 - Ağrı Police Headquarters
 - Ankara Police Headquarters
 - Edirne Police Headquarters
 - Elâzığ Police Headquarters
 - Erzurum Police Headquarters
 - Istanbul Police Headquarters
 - Şanlıurfa Police Headquarters
 - Tekirdağ Police Headquarters
 - Van Police Headquarters
 - Provincial Gendarmerie Headquarters, Elâzığ
 - Provincial Gendarmerie Headquarters, Van
 - Various district and local police and gendarmerie establishments in Elâzığ, Çervas, Istanbul, Patnos, Şanlıurfa, Sivrice and Suruç
 - Detention facilities at the Kapikule border post
 - Detention facilities at Istanbul International Airport
- Prisons
 - Imralı Prison
 - Şanlıurfa Prison
 - Sincan F-type Prison
 - Tekirdağ F-type Prison No. I
- Reformatories
 - Ankara Reformatory for Juveniles
 - Elâzığ Reformatory for Juveniles.

The delegation also went to the following establishments, in order to interview certain categories of prisoners (in particular new arrivals, juveniles and women):

- Elâzığ Prison
- Elmadağ Prison for Juveniles
- Istanbul Prison and Detention House (Bayrampaşa)
- Metris Prison (Istanbul)
- Sivrice District Prison
- Üsküdur Paşakapısı Prison and Detention House (Istanbul)
- Van Prison.

Spain

(22 to 26 July 2001)

A delegation of the CPT recently carried out a the Committee's seventh visit to Spain.

In the course of its visit, the CPT's delegation met Pedro Morenes Eulate, Secretary of State for Security, and Eugenio Lopez Alvarez, Technical General Secretary, and other senior officials from the Ministry of the Interior.

The main purpose of the visit was to examine the efficacy in practice of the formal legal safeguards against ill-treatment which are available to persons deprived of their liberty by the law enforcement agencies in Spain. The delegation reviewed the action being taken by the Spanish authorities to implement the CPT's recommendations on this

1. The CPT's report on its first visit to Slovenia, as well as the response of the Slovenian authorities, have been made public at the request of the Slovenian Government. These documents can be consulted on the CPT's website or obtained from the CPT's Secretariat.

subject. It also examined the internal accountability procedures of the National Police and the Civil Guard in cases involving allegations of ill-treatment by members of those agencies. Further, the delegation interviewed a number of persons recently detained by the National Police and the Civil Guard on suspicion of terrorist-related offences.

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 **Government of Lithuania** has agreed to the publication of the report of the CPT on the visit in February 2000 and of its responses (CPT/Inf (2001) 22) [EN] et (CPT/Inf (2001) 23) [EN].

The **Government of “the former Yugoslav Republic of Macedonia”** has agreed to the publication of the report of the CPT on the visit in May 1998 and of its responses (CPT/Inf (2001) 20) [EN] and (CPT/Inf (2001) 21) [EN].

The **Greek Government** has agreed to the publication of the reports of the Council of Europe’s CPT on its visits from 4 to 6 November 1996, 25 May to 6 June 1997 and 26 October to 2 November 1999, and of the Government’s responses (CPT/Inf (2001) 17) [EN], (CPT/Inf (2001) 18) [EN] and (CPT/Inf (2001) 19) [EN].

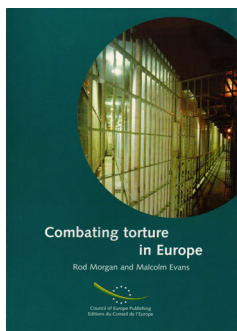
The **Portuguese Government** has requested the publication of the report of the CPT on its visit in April 1999 and of its responses (CPT/Inf (2001) 12) [EN], (CPT/Inf (2001) 13) [FR] and (CPT/Inf (2001) 14) [FR].

The **French Government** has agreed to the publication of the report of the CPT on the visit in May 2000 and of its response (CPT/Inf (2001) 10) [FR] and (CPT/Inf (2001) 11) [FR].

New from Council of Europe Publishing

“Combating torture in Europe” – the work and standards of the European Committee for the Prevention of Torture (CPT)

This book provides a clear and comprehensive insight into the valuable work carried out by one of the Council’s highly influential yet – of necessity given the confidentiality rule which applies to it – rather self-effacing, non-judicial mechanism. Since its inception in 1989, specialist members of the committee (doctors, lawyers, etc.) have visited places of detention, prisons and psychiatric hospitals throughout Europe to monitor the living conditions (hygiene, provision of food and drink, health care, etc.) of those being detained. Following these visits the



committee publishes reports suggesting improvements and laying down standards.

Of interest to all those who actively wish to prevent torture and ill-treatment, in particular NGO workers, legal practitioners, officials (police officers, penal administrators, immigration personnel, psychiatric hospital directors, etc.) and human rights campaigners, this publication will provide a fascinating insight into a relatively secret institution, as well as an up-to-date account of the standards which have been developed.

The authors, Rod Morgan and Malcolm Evans, Professor of Criminal Justice and Professor of International Law at Bristol University (UK) respectively, are leading experts in this field.

92-871-4614-4

(available in English only –
French version due April 2002)

Members of the CPT at 31 October 2001

Several elections of CPT members were held between 1 July and 31 October 2001 in respect of the following states: the **Netherlands** and **Switzerland**, **Austria** and **Denmark**, **Hungary** and the **United Kingdom**.

A full list of members of the CPT is available on the Internet site.

Internet site: <http://www.cpt.coe.int/>

Stop press

- ★ On 10 July 2001, The Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued a public statement concerning the Chechen Republic of the Russian Federation. This statement is appended to the present *Bulletin* (see page 53) and can be found on the CPT’s site: <http://www.cpt.coe.int/en/press/20010710en.htm>.
- ★ On 6 November 2001, Ukraine ratified Protocols Nos. 1 and 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. These ratifications will allow the entry into force of both Protocols, on 1 March 2002. Issue No. 55 of the *Human Rights Information Bulletin* will provide more detailed related information.
- ★ For further information concerning signatures and ratifications related to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment see the “Simplified chart of signatures and ratifications of European human rights treaties”, p. 38.

Framework Convention for the Protection of National Minorities

About the Framework Convention

The Framework Convention is the first legally binding multilateral instrument concerned with the protection of national minorities in general. Adopted by the Council of Europe in 1995, the Framework Convention entered into force on 1 February 1998. As at 31 October 2001, it had been signed by 39 of the 43 member states, 32 of which had also ratified it. Bosnia and Herzegovina and the Federal Republic of Yugoslavia, which are not Council of Europe member states, acceded to the Framework Convention in 2000 and 2001 respectively. During the reference period, Belgium signed the Framework Convention for the Protection of National Minorities, on 1 August 2001.

The Framework Convention's aim is to protect national minorities within the respective territories of the parties. The Convention seeks to promote the full and effective equality of national minorities by creating appropriate conditions enabling them to preserve and develop their culture and to retain their identity, whilst fully respecting the principles of territorial integrity and political independence of States. The principles contained in the Framework Convention have to be implemented through national legislation and appropriate governmental policies.

The Convention sets out principles to be respected as well as goals to be achieved by the Contracting Parties, in order to ensure the protection of persons belonging to national minorities. The substantive provisions of the Framework Convention cover a wide range of issues, *inter alia*: non-discrimination, the promotion of effective equality; the promotion of the conditions necessary for the preservation and development of the culture and preservation of religion, language and traditions; freedoms of assembly, association, expression, thought, conscience and religion; access to, and use of, media; freedoms relating to language, education and transfrontier contacts; participation in economic, cultural and social life; participation in public life and prohibition of forced assimilation.

Monitoring of the implementation of the Framework Convention takes place on the basis of state reports due every five years. The Committee of Ministers may in the interim also request *ad hoc* reports. State reports are made public by the Council of Europe upon receipt. They are examined first by the Advisory Committee of 18 independent experts, which may also receive information from other sources, as well as actively seek additional information and have meetings with governments and others.

The Advisory Committee adopts opinions on each of the state reports, which it transmits to the Committee of Ministers. The latter body takes the final decisions in the

monitoring process in the form of country-specific conclusions and recommendations. Unless the Committee of Ministers decides otherwise in a particular case, the opinions, conclusions and recommendations are all published at the same time.

Nevertheless, state Parties may publish the opinion concerning them, together with their written comments if they so wish, even before adoption of the respective conclusions and possible recommendations by the Committee of Ministers.

As at 31 October 2001, the Advisory Committee had received 25 state reports and already adopted 13 opinions, two of them, in respect of Estonia and Italy, adopted on 14 September 2001, during its 11th plenary meeting (for details see: <http://www.humanrights.coe.int/Minorities/>). All these opinions have been forwarded to the Committee of Ministers.

On 31 October the Committee of Ministers adopted and made public its first conclusions and recommendations in respect of Denmark and Finland.

Stability Pact for South-Eastern Europe

Three projects with a bearing on national minorities were launched at the end of 2000 in the framework of the Stability Pact for South-Eastern Europe. They focus on building the principle of non-discrimination into national legislation, policy and practice, recognition and implementation of existing standards relating to national minorities, and bilateral co-operation agreements as a tool for promoting good ethnic relations.

Examples of activities carried out in this context (1 July-31 October 2001):

- Federal Republic of Yugoslavia, Belgrade, 5-6 July 2001: Regional Ministerial Conference on National and Ethnic Communities and Minorities in South Eastern Europe – Domestic and Regional Confidence-Building;
- Bosnia and Herzegovina, Sarajevo, 17-18 September 2001: Expert meeting on the drafting of Bosnia and Herzegovina report on the application of the Framework Convention, in co-operation with the Ministry for Human Rights and Refugees of Bosnia and Herzegovina;
- Albania, Tirana, 18-19 October 2001: Seminar on the implementation of the Framework Convention, in co-operation with the Ministry of Foreign Affairs of the Republic of Albania and the Council of Europe Tirana Office.

Co-operation activities in the field of the protection of national minorities

- Strasbourg, 13-16 September 2001: Training seminar on the Framework Convention, in co-operation with Minority Rights Group International.

Publication of first opinions on the protection of national minorities by Slovakia and Finland

On 6 July 2001 two opinions of the Advisory Committee of the Council of Europe's Framework Convention for the Protection of National Minorities on measures taken in this field by Slovakia and Finland were made public at the countries' request. This is the first time that such opinions have been made public.

The opinions assess, from the legal standpoint, how well the measures taken by Finland and Slovakia meet the Framework Convention's requirements.

Slovakia

The opinion on Slovakia states that appreciable efforts have been made to support minorities and their cultures and that there has been significant progress in intercommunity relations, in particular between the Hungarian minority and the rest of the population. Nonetheless, legal guarantees in respect of a number of the Framework Convention's clauses needed reinforcing, and in several fields where guarantees were legally satisfactory, greater efforts were needed to ensure they were fully put into effect. Discrimination against the Roma in various fields and their treatment by the police remained worrying.

Finland

The opinion on Finland praises the efforts that have been made on behalf of Swedish-speaking Finns and the efforts to improve protection for the Sami. However, it expresses concern at *de facto* discrimination against the Roma and observes that protection of the Russian-speaking population is not totally satisfactory.

The opinions and government comments are available on the Internet.

Publication of opinions on the protection of national minorities by Liechtenstein and Hungary

On 17 September 2001, two opinions of the Advisory Committee on the Council of Europe's Framework Conven-

tion on the measures taken in this field by Liechtenstein and Hungary were made public on the initiative of the States concerned. The publication of these opinions follow on from those on Slovakia and Finland in July 2001.

They contain a legal assessment of the adequacy of the measures taken by Liechtenstein and Hungary to comply with the Framework Convention.

Liechtenstein

In its opinion on Liechtenstein, the Advisory Committee notes Liechtenstein's declaration that there are no national minorities on its territory and recognises that the potential for applying some provisions of the Framework Convention in Liechtenstein was rather limited.

Hungary

With regard to Hungary, the opinion notes that particularly commendable efforts have been made to protect national minorities, especially through the establishment of a system of minority self-government and an education system for the minorities. Much nonetheless remains to be done to complete the legal and institutional framework and fully ensure that the standards set are applied in practice. The opinion notes that the situation of the Roma gives rise to deep concern, notably regarding numerous acts of discrimination against them, still widespread negative social perceptions and significant differences in socio-economic and living conditions between Roma and the remaining population.

The opinions, their executive summaries and the comments of the governments concerned can be consulted on the Internet

Contact

Secretariat of the Framework Convention for the Protection of National Minorities Directorate General of Human Rights – DG II (e-mail: minorities.fcnm@coe.int, tel. + 33 3 90 21 44 33, fax: + 33 3 90 21 49 18).

The website of the Framework Convention Secretariat (<http://www.humanrights.coe.int/Minorities/>), launched in May 2000, contains complete information on the Convention and monitoring of it, including state reports in full and news items related to the Convention.

For further information concerning signatures and ratifications related to the Framework Convention for the Protection of National Minorities see the "Simplified chart of signatures and ratifications of European human rights treaties", p. 38.

At the heart of the Council of Europe's democratic construction lies freedom of expression, which forms an essential part of the structure. Responsibility for maintaining it is in the hands of the Steering Committee on the Mass Media (CDMM), which aims at promoting free, independent and pluralist media, so safeguarding the proper functioning of a democratic society.

Steering Committee on the Mass Media (CDMM)

On the initiative of the CDMM, the Committee of Ministers adopted on 5 September 2001 two Recommendations concerning illegal or harmful content on the Internet and the protection against piracy in the digital environment.

Recommendation Rec (2000) 8 on self-regulation concerning cybercontent proposes guidelines to member states regarding measures they could take in co-operation with the Internet industry and their self-regulatory bodies: support for content description, content selection tools for users, content complaints systems such as hotlines, as well as

Key tools

The European Convention on Human Rights.

Article 10 concerns freedom of expression, both to receive and to impart information and ideas. Article 8, closely linked to freedom of expression, deals with the right to privacy. It protects the individual against all types of interference, including intrusion by the media. National legislation must allow the balanced exercise of these two fundamental rights of equal value.

The Declaration on Freedom of Expression and Information (1982) of the Council of Europe sets forth a number of fundamental principles which the member states agree to uphold.

The European Convention on Transfrontier Television, which entered into force in 1993, supplies a legal framework intended to ensure the free reception and retransmission of television across national borders, subject to compliance with a set of common principles covering programming, the right of reply, advertising and sponsorship. To date, the Convention has been ratified by 23 of the 43 member states (see the "Simplified chart of signatures and ratifications of European human rights treaties").

Recommendations or resolutions to governments of member states suggest certain particular measures to regulate the media. Such texts are drawn up and refined by the CDMM before their adoption by the Committee of Ministers.

mediation and arbitration. The text stresses the importance of pan-European and international co-operation to counteract the dissemination of illegal and harmful content, such as pornography, violent and racist content and content harmful to minors.

Recommendation Rec (2000) 7 on measures to protect copyright and neighbouring rights and combat piracy, especially in the digital environment, stresses that over the last few years, piracy has been made easier by the development of new digital technologies and that it causes serious damage to the sectors concerned. The text recommends establishing pan-European anti-piracy policies that would recognise certain intellectual property rights and provide for appropriate sanctions against the violation of those rights through acts of piracy.

The Advisory Panel on media diversity (AP-MD) was established after the Cracow Ministerial Conference to report to the CDMM on questions of media diversity and pluralism. During the course of its second meeting on 8-9 October 2001, the Panel held a hearing with experts on media ownership regulations and possible future regulatory approaches in this area. The Panel has also embarked on the preparation of a draft report on media diversity, which it expects to finalise next year.

Activities for the development and consolidation of democratic stability

On 14 August 2001, the Council of Europe and the European Union signed an agreement on a Joint Initiative to assist the Montenegrin authorities with the adaptation of the legal framework in the media field in Montenegro. This one-year programme complements the Joint Initiative which is currently being implemented in Serbia.

In its Recommendation 1497 (2001) on freedom of expression and the functioning of parliamentary democracy in Ukraine, the Parliamentary Assembly called on the Committee of Ministers to provide greater assistance to Ukraine in order to achieve a noticeable improvement of the general framework in which the media operate. In response to this Recommendation, an Action Plan has been drawn up for the purpose of assisting the Ukrainian authorities in setting up and applying a regulatory framework for the media in keeping with Council of Europe standards. The Plan also

aims to promote the development of a range of free, independent and pluralistic media in Ukraine

Following the accession of Armenia and Azerbaijan to the Council of Europe in January 2001, a supplementary support programme was set up to assist these countries in the reform of their media legislation and practice in compliance with the relevant European standards.

Information on the activities implemented in the framework of the above-mentioned programmes, as well as those carried out in other countries, can be found on the web site.

Internet: <http://www.humanrights.coe.int/media>.

Co-operation programmes

Priority among the initiatives undertaken by the Council of Europe to foster democratic security: establishing a media system which satisfies all the requirements of a democratic society – especially in the new member states and in those that are candidates for membership. Co-operation programmes allow the Organisation to give support to member countries in the democratic reform of their media structures. Parallel information campaigns aim at creating awareness in such matters as the exercise of journalistic freedom, media action and racism, election coverage, the relationship between the media and the legal authorities, or the treatment of minorities.



European Commission against Racism and Intolerance (ECRI)

The European Commission against Racism and Intolerance was born as a result of the first Summit of Heads of State and Government of the member states, in 1993, with a task: to combat racism, xenophobia, anti-Semitism and intolerance at European level and from the perspective of the protection of human rights.

Work

Country-by-country

July: 4 second reports

On 3 July ECRI made public its second reports on Croatia, Cyprus, Germany and Turkey. These reports form part of a second cycle of monitoring of member states' laws, policies and practices to combat racism. As part of this approach, ECRI analyses the situation as regards racism and intolerance in each of the member states of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

November: 2 second reports

At its plenary meeting in June 2001, ECRI adopted its second reports on the Russian Federation and the Netherlands, which were published in November. At the same plenary meeting, draft reports on Estonia, Georgia, Ireland, Italy and Romania were examined and the final versions of these reports are due to be adopted at ECRI's plenary in

December 2001. In Autumn 2001 contact visits took place to Latvia, Finland, Ukraine, Malta, and Portugal, with a view to preparing draft reports on these countries, to be discussed at ECRI's plenary meeting in December 2001.

General themes

Anti-discrimination legislation

A working group on anti-discrimination legislation is currently preparing a draft ECRI general policy recommendation on "Key components of a body of legislation at national level against racism and racial discrimination", which is expected to be adopted by ECRI at its plenary meeting in March 2002. The text will cover issues related to combating racism in a broad sense, such as racial discrimination, expressions of a racist nature, racist organisations, etc., and will cover all branches of the law, constitutional, civil, administrative and criminal.

ECRI'S TRIPLE PROGRAMME

country-by-country work

This approach consists of carrying out an in-depth analysis of the situation in each of the member countries in order to develop specific, concrete proposals, matched by follow-up.

- the first round of reports was conducted between 1997 and 1999, giving rise to the first reports.
- the second stage, from 1999 to 2002, is in progress with 11 second reports published.
- the third will begin in 2003.

activities

in liaison with the community

- awareness-raising and information sessions in the member states
- co-ordination with national and local NGOs
- communicating the anti-racist message and producing educational material.

work on general themes

- adoption of general policy recommendations addressed to the governments of the member States. To date ECRI has adopted six recommendations
- collection and circulation of examples of "good practice" on specific subjects, to illustrate ECRI's recommendations
- curbing the dissemination of racist and anti-Semitic materials over the Internet
- broadening the non-discrimination clause (Article 14) of the European Convention on Human Rights through Protocol No. 12 (containing a non-exhaustive list of discrimination grounds). ECRI has been closely following work on the protocol right up to finalisation and will be calling for its swift ratification.
- contribution to the World Conference against racism, racial discrimination, xenophobia and related intolerance.

United Nations World Conference against racism, racial discrimination, xenophobia and related intolerance

A Council of Europe delegation, headed by the Secretary General and including the Chairman of ECRI, as well as representatives of the Parliamentary Assembly, participated in the World Conference against Racism, held in Durban, South Africa, from 31 August to 8 September 2001. The Council of Europe had organised the European contribution (European Conference against Racism *All different all equal: from principle to practice*) to the World Conference. It recalled in Durban its readiness to join collective efforts at the European level to ensure the action needed to implement the recommendations of the World Conference.

Publications

Second report on Croatia

CRI (2001) 34

Second report on Cyprus

CRI (2001) 35

Second report on Germany

CRI (2001) 36

Second report on Turkey

CRI (2001) 37

published in July, these 4 reports are summarised in Bulletin No. 53, publications section.

ECRI recognises that in the two following countries positive developments have occurred. At the same time, the reports detail ECRI's continuing grounds for concern.

Second report on the Netherlands

CRI (2001) 40

In the Netherlands, the labour market is one of the areas where discrimination still appears to be most widespread. The effectiveness of existing criminal law aimed at combating racism and discrimination is limited, notably due to difficulties in the enforcement of the relevant provisions. Of concern is also the general climate concerning asylum-seekers and

immigrants, sometimes resulting in manifestation of hostility *vis-à-vis* these groups of persons.

Second report on the Russian Federation

CRI (2001) 41

In the Russian Federation, problems of racism, xenophobia and discrimination persist and concern notably – although not exclusively – Chechens and other people from the North Caucasus, people from Central Asia, refugees and members of the Jewish community. These problems are in part linked to the difficulties encountered in ensuring that federal legislation and policies are applied at the regional and local levels. An illustration of this is the discrimination originating from the system of registration of residence and temporary stay and its enforcement procedure, an issue of particular concern to ECRI. The behaviour – on what seems to be a significant scale – of law enforcement officials *vis-à-vis* members of certain minority groups is also cause for serious concern. Concern is also expressed at the unsatisfactory implementation of existing law provisions against racial violence and hate speech, these phenomena being in part connected to the presence of extremist groups and political parties and to the exploitation of social prejudice.

Practical examples in combating racism and intolerance against Roma/Gypsies

CRI (2001) 28

Contains practical examples in combating racism and intolerance against Roma/Gypsies. The examples cited have been compiled by an independent consultant, Robin Oakley. This publication is intended to accompany ECRI general policy recommendation No. 3 on Combating racism and intolerance against Roma/Gypsies, which was adopted on 6 March 1998, and which provides guidelines for the development of comprehensive national policies in this respect. French version to be published in 2002.

Activities of the Council of Europe with relevance to combating racism and intolerance

CRI (99) 56 final rev.

This document, published in September, provides an overview of various Council of Europe activities, which contribute to the fight against racism and intolerance.

Internet site : <http://www.ecri.coe.int/>

I am black, I am white, I am black and white. This illustration by the Alsatian artist Tomi Ungerer in the framework of European Conference against Racism has been accepted to appear on a stamp. It has been chosen as a message of tolerance to be addressed to the young generations of tomorrow, who will be responsible for society in the near future. The French Post Office has been making special postage stamps available to the Council of Europe since 1958.



Equality between women and men

Since 1979, the Organisation has been promoting European co-operation to achieve real equality between the sexes. The Steering Committee for Equality between Women and Men (CDEG) has the responsibility for co-ordinating these activities.

Women and conflict prevention

The Steering Committee for Equality between Women and Men organised a seminar in Strasbourg on 20 and 21 September on the participation of women in the prevention and resolution of conflicts. The main objective was to explore and draw attention to the involvement of women in the Council of Europe member states in peacemaking, peacebuilding and conflict prevention activities at the grassroots level, as well as at the level of formal decision-making. The seminar was also a preparatory event for the 5th European Ministerial Conference on equality between women and men, which is to be held in Skopje in June 2002.

Over a hundred experts – many of whom have actively worked for peace and dialogue in troubled areas – took part in the seminar. Speakers from, for example, the Balkans, Northern Ireland, Cyprus and Chechnya, described how women had worked in their countries and regions to build bridges across dividing lines, organise politically to ensure women's presence at peace talks and talk with the "other side" to find understanding rather than retribution.

The conclusions of the General Rapporteur, including recommendations to governments, international and non-governmental organisations and decision-makers in the media, can be found on the Equality web site: <http://www.humanrights.coe.int/equality/>.



From theory...

The European Convention on Human Rights, Article 14, prohibits any distinction based, *inter alia*, on grounds of sex, in relation to the rights protected.

Protocol No. 7 adds the principle of equality between spouses with regard to their rights and responsibilities in marriage.

Protocol No. 12, once in force, will provide that no one can be discriminated against by any public authority on any ground.

The European Social Charter and its Additional Protocol of 1988 provide a number of specific rights for women. The revised Social Charter contains a specific non-discrimination clause on a variety of grounds, one of which is sex.

Gender mainstreaming

Gender mainstreaming in Council of Europe committees

A workshop on gender mainstreaming for the Chairs and Secretaries of four Council of Europe Steering Committees (Social Cohesion, Health, Sport, Territorial Asylum, Refugees and Stateless Persons) was held by the Steering Committee for Equality between Women and Men (CDEG) in Strasbourg on 5 September. The participants discussed how gender equality relates to the fields dealt with by the different committees and how a gender perspective could be introduced into their work. A consultant expert will be preparing a mission statement for each committee to be discussed at their forthcoming meetings.

Network on gender mainstreaming

An informal meeting of experts working in the field of gender mainstreaming was organised by the Steering Com-

... to practice

The Steering Committee for Equality between Women and Men has the principal responsibility for defining and implementing the Council of Europe's action in this field. It prepares ministerial conferences, organises seminars and publishes studies on questions concerning equality. The CDEG looks for appropriate ways of eliminating current obstacles and draws attention to the challenges involved in bringing about full and effective equality.

As well as its action supporting equal participation of women and men at all levels of life in society, the CDEG is also involved in more specific activities:

- protecting women against violence
- campaigning against the traffic in human beings for purposes of sexual exploitation
- The participation of women in political and public decision-making
- integrating the question of equality in all policies and programmes
- positive action in favour of equality.

mittee for equality between women and men (CDEG) in Strasbourg on 3 October 2001. The aim of the meeting was to enable experts to meet and exchange experiences and provide an impetus to develop networks at national, regional and international levels. The web site of the Equality Division will be developed to provide a source of information on experts in the field of gender mainstreaming, projects organised, documents published, etc.

Gender mainstreaming in schools

The first meeting of a Group of specialists on promoting gender mainstreaming in schools (EG-S-GS) took place in Strasbourg on 18-19 October 2001. The group, which includes representatives of the Equality and Education Committees and experts in the field of equality and/or education, will be looking at the relevance of existing policies and practices in the field of gender equality in education and how these can be adapted to new challenges. The group will prepare a report on how gender mainstreaming can be promoted in schools through, *inter alia*, initial and continuous teacher training, introduction of new teaching methods and learning contexts, revision of curricula and teaching materials, including examples of good practice. The group is also responsible for preparing a draft recommendation to member states containing guidelines for policies and measures to be taken in this area.

Internet site: <http://www.humanrights.coe.int/equality/>

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

A information and awareness-raising seminar on the prevention of trafficking in human beings for the purpose of sexual exploitation was held in Sofia, Bulgaria, on 15 and 16 October. Work is starting on the preparation of a draft law on combating trafficking and a draft National Action Plan for the prevention of trafficking in women and victim support.

As part of the Council of Europe contribution to the Stability Pact Task Force on Trafficking, a pilot project on "criminal law reform on trafficking in human beings in South Eastern Europe" started with a seminar in Bucharest, Romania, on 24-26 October. The aim of the project is to contribute to the effective criminalisation of trafficking in human beings at regional level and to ensure protection of victims' Human Rights in accordance with European and other international standards.

Thanks to financing from the Canadian Government in the framework of the Stability Pact, a number of Council of Europe documents on gender issues have been translated into the languages of south-east Europe.

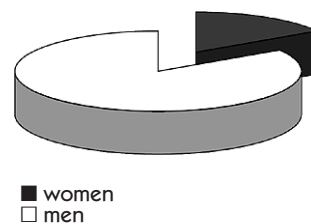
Publications

Women in politics in the Council of Europe member states

EG (2001) 6

This document presents an inventory, in each of the 43 member states of the Council of Europe, of the number of women holding government posts; the percentage of women in elected positions at national, regional and local level; measures designed to facilitate women's participation in political life; and the type of electoral system, at 31 July 2001. Six comparative tables can be found at the end of the document.

An eloquent graphic: in parliaments of the Council of Europe member states women held 1,698 seats (16.7%), men 8,485 (83.3%).



Handbook on national machinery to promote gender equality and action plans

EG (2001) 7

International seminar on the participation of women in the prevention and resolution of conflicts (Strasbourg, 20-21 September 2001) – Conclusions by the General Rapporteur

EG/Sem/Peace (2001) 7

Human rights awareness

In the field of human rights, the future presents many challenges for the Council of Europe. In response, it has set up co-operation programmes, with both new and old member states, non-governmental organisations and professional groups.

“Train the trainers” course for police and gendarmerie in Turkey

In September this year a working group, with members from the Turkish Government and the Council of Europe, had its first meeting and finalised a common proposal for “train the trainers” course, which will be funded by a joint programme of the Council of Europe and the European Commission. In total 72 police and gendarmerie teachers will participate in the “train the trainers” courses.

The “train the trainers” course” will start with a pilot course for 18 trainers in January 2002 involving three weeks’ preparation in Ankara. During this period the participants will have basic human rights education and pedagogical training in modern teaching methods. The experts will be from several countries, including Turkey.

The following stage of the course will include training abroad in Germany, the Netherlands and Denmark. The participants will follow teaching methods in use in the police schools and observe how human rights are mainstreamed in the police-related topics. The 12 days abroad will be finalised with a two-day evaluation in Ankara.

After the period abroad participants will return to their ordinary work for a period of 8 weeks and put the new lessons to the test to see whether they are adapted to the needs of the Turkish Police and Gendarmerie. Following this period, participants will evaluate with a consultant and representatives from the Council of Europe, the whole course. The results of the evaluation will be taken into consideration in the preparation of the remaining three courses.

Human Rights Awareness in Azerbaijan

A seminar entitled “Azerbaijan and Council of Europe: applicable human rights standards” was held in Ganja, Azerbaijan on 17 and 18 September 2001, for representatives of local non-governmental organisations. The participants discussed the major existing human rights protection

mechanisms within the Council of Europe, and demonstrated a remarkable interest in possible ways to cater for human rights protection under the European Convention on Human Rights and the European Convention for the Prevention of Torture. The seminar proved that reaching out to relevant professionals in remote places from the capitals of the member states is a sure way of providing for a direct discussion between them and the Council of Europe that bears a strong potential for a productive outcome.

Asylum and the European Convention on Human Rights

Approximately forty participants (judges, representatives from relevant ministries, non-governmental organisations, human rights activists and lawyers) from the Russian Federation, Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus took part in each of the two seminars organised by the Council of Europe in cooperation with the United Nations High Commissioner for Refugees’ Moscow office in October in Moscow.

The first event was devoted to “The European Convention on Human Rights and its relevance for the protection of asylum-seekers, refugees and internally displaced persons”, while the second one discussed “Freedom of movement in CIS”. The meetings targeted to create a dialogue between various law enforcement agencies in order to address problems of persons unable to integrate locally and to acquire Russian citizenship. The aim was also to explore international law in relation to freedom of movement and domestic implementation measures, as well as to raise awareness of CIS obligations to implement measures regarding the facilitation of freedom of movement (especially in light of Article 2 of Protocol No. 4 to the European Convention on Human Rights).

Internet site: <http://www.humanrights.coe.int/aware> and <http://www.humanrights.coe.int/police>

Human rights: child's play in Kosovo

Awareness campaign in Kosovo schools

In co-operation with the OSCE, a human rights awareness-raising campaign for primary school pupils started in October in Kosovo, funded by a voluntary contribution from the US Government. The CoE's participation consisted of adapting existing human rights awareness material to be used in a number of schools in Kosovo. The CoE provided the original designs and the materials, while the OSCE will be bringing the project into the schools in Kosovo.

What happens?

- The campaign's main tool is a school calendar (covering October to June). Each of the nine pages of the calendar is illustrated with an image by the Polish artist Wozniak, representing one of the rights guaranteed by the European Convention on Human Rights.
- The pictures have no title, only the motto **Not only this year: rights are for always, rights are for everyone!**
- Facilitators will read out the text of the European Convention and guide the children to choose the right represented in the pictures.
- Once the children, by democratic vote, have identified the right, the facilitators will give them an activity connected with that right to carry out during the month.
- On the calendar sheet for the month the children have space to include a diagram of their vote, thoughts and images relating to the right of the month and the results of their monthly activity.
- In June the facilitators will collect all the calendars and bring them to Pristina for a selection. At the end of June there will be a ceremony/event where the best calendars will be awarded prizes.



How does it happen?

- The facilitators bring one page of the calendar per month.
- The exercise takes one hour.
- During the month, teachers may spend a further hour in assessing the state of implementation of the monthly activity.
- The facilitators are national and international staff members of the Human Rights Division of the OSCE Mission in Kosovo. There are two facilitators per class.

Where does it happen?

- The classes targeted will be in the order of 30 per region and the ethnic balance will be observed (70% Albanian, 20% Bosnian/Serbian, 10% Turkish).
- The age-group targeted, given the symbolic design of the pictures, is 13/14 year-olds.

Evaluations of the project will take place at regular intervals, with debriefings, and interviews with students, teachers and facilitators by OSCE staff. If the project is successful, the Campaign will be repeated on a larger scale during the following school year.

Februar



Simplified chart of signatures and ratifications of European human rights treaties

	European Convention on Human Rights	Protocol No. 1	Protocol No. 4	Protocol No. 6	Protocol No. 7	Protocol No. 12	European Social Charter	Additional protocol	Protocol amending the ESC	"Collective Complaints" Protocol	Revised Charter	European Convention for the Prevention of Torture	Protocol No. 1	Protocol No. 2	Framework Convention for the Protection of National Minorities	European Convention on Transfrontier Television
Albania	●	●	●	●	●	●	●	●	○	○	○	●	●	●	○	○
Andorra	●	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Armenia	●	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Austria	●	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Azerbaijan	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Belgium	●	●	●	●	●	●	●	●	○	○	○	●	●	●	○	○
Bulgaria	●	●	●	●	●	●	●	●	○	○	○	●	●	●	○	○
Croatia	●	●	●	●	●	●	●	●	○	○	○	●	●	●	○	○
Cyprus	●	●	●	●	●	○	●	●	●	○	○	●	●	●	○	○
Czech Republic	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Denmark	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Estonia	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Finland	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
France	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Georgia	●	○	○	○	○	○	○	○	○	○	○	○	○	○	○	○
Germany	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Greece	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Hungary	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Iceland	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Ireland	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Italy	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Latvia	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Liechtenstein	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○
Lithuania	●	●	●	●	●	○	●	●	○	○	○	●	●	●	○	○



	European Convention on Human Rights Protocol No. 1	Protocol No. 4	Protocol No. 6	Protocol No. 7	Protocol No. 12	European Social Charter Additional Protocol	Protocol amending the ESC	"Collective Complaints" Protocol Revised Charter	European Convention for the Prevention of Torture Protocol No. 1	Protocol No. 2	Framework Convention for the Protection of National Minorities	European Convention on Transfrontier Television
Luxembourg	●	●	●	●	○	●	○	○	●	●	○	○
Malta	●	○	○	○	○	○	○	○	○	○	○	○
Moldova	●	○	○	○	○	○	○	○	○	○	○	○
Netherlands	●	●	●	●	○	●	●	●	●	●	○	○
Norway	●	●	●	●	○	●	●	●	●	●	○	○
Poland	●	●	●	○	○	●	●	○	●	●	○	○
Portugal	●	●	●	○	○	●	●	○	●	●	○	○
Romania	●	●	●	○	○	●	●	○	●	●	○	○
Russia	●	○	○	○	○	○	○	○	○	○	○	○
San Marino	●	○	○	○	○	○	○	○	○	○	○	○
Slovakia	●	●	●	○	○	○	○	○	○	○	○	○
Slovenia	●	●	●	○	○	○	○	○	○	○	○	○
Spain	●	○	○	○	○	○	○	○	○	○	○	○
Sweden	●	○	○	○	○	○	○	○	○	○	○	○
Switzerland	○	○	○	○	○	○	○	○	○	○	○	○
"The former Yugoslav Republic of Macedonia"	●	○	○	○	○	○	○	○	○	○	○	○
Turkey	●	○	○	○	○	○	○	○	○	○	○	○
Ukraine	●	○	○	○	○	○	○	○	○	○	○	○
United Kingdom	●	○	○	○	○	○	○	○	○	○	○	○

● = ratified ○ = signed

Full information on signatures and ratifications at <http://conventions.coe.int>



Committee of Ministers

The Committee of Ministers is the decision-making body of the Council of Europe, made up of the foreign ministers of the forty-one member states or their permanent representatives. The Committee meets twice a year at ministerial level, and once a week at the level of ministerial deputies. The human rights situation in member and non-member states features regularly on their agenda.

New treaties

Convention on cybercrime

Adopted by the Committee of Ministers on 19 September 2001. Opened for signature on 23 November 2001

This Convention is the first international treaty on crimes committed via the Internet and other computer networks. It deals particularly with infringements of copyright, computer-related fraud, child pornography and violations of network security. It provides for procedural powers such as the search of computer networks and interception.

Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters

Adopted by the Committee of Ministers on 19 September 2001. Opened for signature on 8 November 2001

This Protocol is intended to improve states' ability to react to cross-border crime in the light of political and social developments in Europe and technological developments throughout the world. It improves and supplements the 1959 Convention on Mutual Assistance and the 1978 additional protocol to it, in particular by broadening the range of situations in which mutual assistance may be requested and making it easier, quicker and more flexible. It also takes account of the need to protect individual rights in the processing of personal data.

Additional Protocol to the Agreement on the Transmission of Applications for Legal Aid

Opened for signature in Moscow on 4 October 2001

The 1977 Agreement aims to eliminate economic obstacles in legal proceedings for people in a financially weak

position. It provides that persons having their habitual residence in the territory of a Party to the Agreement may apply for legal aid in civil, commercial or administrative matters in the territory of another Party.

The additional protocol aims to improve the practical application of the Agreement, in particular as regards co-operation between central authorities and communication between lawyers and applicants.

Adopted texts

They may take the form of:

Treaties – or conventions – are binding legal instruments for the states and other subjects of international law which are parties to them.

Declarations are usually adopted only at the biannual ministerial sessions.

Recommendations to member states are for matters on which the Committee has agreed a common policy, but are not binding on member states. Since 1993, recommendations have also been adopted by the Committee in order to fulfil its functions under Article 29 of the European Social Charter.

Resolutions are mainly adopted by the Committee of Ministers in order to fulfil its functions under the European Convention on Human Rights, the European Code of Social Security, the European Social Charter and the Partial Agreement in the social and public health field. Other resolutions tend to concern administrative matters of the Council of Europe.

Decisions of the Ministers' Deputies, issued as public documents since November 1994, are taken with the full authority of the Committee of Ministers and are binding on all persons and bodies subject to its authority. They are an essential reference point for the Council of Europe's Secretariat. The adoption of conventions, recommendations, resolutions, the budget the Intergovernmental Programme of Activities and terms of reference of committees all take the form of decisions.

Convention on Information and Legal Co-operation concerning “information society services”

Opened for signature in Moscow on 4 October 2001

The aim of this Convention, which was prepared in close co-operation with the European Union, is to set up a legal information and co-operation system in the area of new communication services, extending the application of Directive 98/48/CE beyond the borders of the European Union. These new services, which are evolving very rapidly, not only have an impact on the protection of certain human rights such as freedom of expression and the respect for private life, but are also relevant for other questions, such as the fight against terrorism, organised crime and frauds concerning electronic commerce.

This Convention constitutes one of the first examples of the extension of a European Union Directive to the member states of the Council of Europe which are not members of the European Union.

Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding Supervisory Authorities and Transborder Data Flows

Adopted by the Committee of Ministers on 23 May 2001. Opened for signature on 8 November 2001

This text will increase the protection of personal data and privacy by improving the Convention of 1981 in two areas: firstly, it provides for the setting up of national supervisory authorities responsible for ensuring compliance with laws or regulations adopted in pursuance of the Convention. Secondly, it calls up, as a condition to a data flow to a third country, the necessity that the recipient state or international organisation be able to afford an adequate level of protection.

The treaties' texts are available on the Internet site of the Directorate General of Legal Affairs, Treaty Office.

Treaty Office's Internet site: <http://conventions.coe.int>

Recommendations to member states

Racism prevention in sport

Recommendation Rec (2001) 6, 18 July 2001

The Committee of Ministers advocates the application of special legislation under which any form of act or speech inciting others to violence or to discrimination against racial groups would be an offence under the criminal law and severe penalties laid down. It suggests that regulations and

educational and social measures should go hand in hand with legislative measures.

Digital piracy

Recommendation Rec (2001) 7, 5 September 2001

The text recommends establishing pan-European anti-piracy policies that would recognise certain intellectual property rights and provide for appropriate sanctions against the violation of those rights through piracy.

Harmful Internet content

Recommendation Rec (2001) 8, 5 September 2001

The Recommendation stresses the importance of international co-operation to counteract the dissemination of illegal and harmful content, such as pornography, violent and racist content and content insuitable for minors.

Friendly settlement of administrative disputes

Recommendation Rec (2001) 9, 5 September 2001

The Recommendation calls for encouraging the use of alternative means of resolving administrative disputes, the principal advantage of which being that they are more flexible, more speedy and less expensive, while maintaining judicial review.

European Code of Police Ethics

Recommendation Rec (2001) 10, 19 September 2001

This text defines standards, values and a minimum ethical framework common to all member states in terms of police objectives, operations and responsibilities, so as to guarantee security and respect for human rights in democratic societies.

It is the first European instrument of its kind to address questions of police ethics.

Fight against organised crime

Recommendation Rec (2001) 11, 19 September 2001

The Recommendation aims to establish a crime policy common to member states by setting out ways to make their law more effective and step up international co-operation against the many facets of organised crime.

Health policy towards people in marginal situations

Recommendation Rec (2001) 12, 10 October 2001

This text crowns the series of the Recommendations on vulnerable sections of the population. The constant rise in the number of people living in marginal situations and in insecure conditions, and its serious consequences *inter alia* in the health field, call for adopting a coherent and comprehen-



sive policy. To protect and promote the health of people in marginal situations, the Recommendation proposes a multisectoral approach to preventive action and supportive environments for social reintegration.

Guidelines on best medical practices

Recommendation Rec (2001) 13, 10 October 2001

The Recommendation proposes a framework for coherent and comprehensive national policy for the production, appraisal, updating and active dissemination of evidence-based clinical practice guidelines. Its main aim is to support and promote good clinical practice in the best interest of the patient and to improve the quality and effectiveness of health care.

History teaching in 21st century Europe

Recommendation Rec (2001) 15, 31 October 2001

To promote the European dimension in history teaching, based on the premise that ideological manipulation of history is incompatible with the fundamental principles of the Council of Europe, the Committee of Ministers recommends the member states' governments make use of a number of guidelines for reforming history teaching. It encourages such fundamental values as tolerance, mutual understanding, human rights and democracy and preventing crimes against humanity. It warns against misuses of history for propaganda purposes or denial or omission of historical facts. To this end, it calls for a day in schools for Holocaust remembrance and the prevention of crimes against humanity.

Protection of children against sexual exploitation

Recommendation Rec (2001) 16, 31 October 2001

The series of concrete measures proposed in this text aims at protecting children more efficiently against all forms of pornography, prostitution, slavery and trafficking. Noting that the sexual exploitation of children has assumed alarming proportions, especially with regard to new technologies such as the Internet, and that it is criminal networks' doing, operating in all European states, the Recommendation calls on states to coordinate and reinforce their actions.

Declarations

Protection and rebuilding of places of worship in Kosovo and the wider Balkans

18 July 2001

The Committee of Ministers calls on the international community to mobilise with a view to protecting and rebuilding places of worship in Kosovo and the wider Balkans, symbols of a possible return of mutual confidence and of

harmonious coexistence between peoples, nationalities, ethnic groups and religions.

It emphasises that the promotion of tolerance and reconciliation is an absolute priority for democratic stability in this region, an objective to which the Council of Europe intends to make its own specific contribution, based on common values such as cultural diversity, respect for human rights and the equal dignity of all human beings.

Fight against international terrorism

12 September 2001

The Committee of Ministers condemned the monstrous acts committed on 11 September against the American people, which, it said, violated human rights and affected us all.

Considering that the Council of Europe, which unites the continent around civilised values, has a particular interest and responsibility to the resolute reaction that these acts demand from democracies, it decided to hold an urgent special meeting in order to find the ways of strengthening the fight against terrorism.

[During the said meeting, the Ministers' Deputies took a number of short and medium-term decisions :

- They urged states which have not yet done so to sign and ratify, *inter alia*, the European Convention on the Suppression of Terrorism; and urged signatory states which have issued reservations on these texts to consider withdrawing them or reducing their number.
- A committee of experts has been asked to co-ordinate member states' positions on the conventions on terrorism being prepared by the United Nations.
- They asked the Secretary General to make urgent proposals for the 2002 working programme and decided to include the fight against terrorism in the agenda for the 109th session of the Committee of Ministers which will be held in November 2001.]

Bosnia and Herzegovina

19 September 2001

The Committee of Ministers considers that the adoption of the new electoral law for Bosnia and Herzegovina fulfils a major condition for the accession of the country to the Council of Europe. It encourages it to continue the reinforcement of its institutional capabilities and to resolve all outstanding matters relating to accession.

Alleged political prisoners in Armenia and Azerbaijan

21 September 2001

While welcoming the measures of pardon taken by the President of the Republic of Azerbaijan towards 89 prisoners – which constitute a success of the Council of Europe's efforts for the development of democracy in this country – the Committee of Ministers points out that all political prisoners must be released or be granted a new trial. It requests the Azerbaijan Government to persevere in its

efforts to honour its obligations to the full and to provide a solution to problems which should not exist in a Council of Europe member state.

International Criminal Court

10 October 2001

The Committee of Ministers calls on all states to facilitate the early establishment of the International Criminal Court, which it considers as a fundamental factor of peace and security and as based on very high standards of justice, to which the Council of Europe is strongly attached. It expresses its readiness to provide states which so request with the appropriate assistance with a view to the ratification and implementation of the Rome Statute.

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

The Committee of Ministers informed the Parliamentary Assembly of the effect it gave, or intends to give, to the following recommendations:

Recommendation 1427 (1999) on the respect for international humanitarian law in Europe

Reply of 4 July 2001, Document 9174 of the Assembly

The Committee of Ministers' reply contains information on the role the Council of Europe and other bodies can play in this field and, notably, to the possibilities offered by the European Convention on Human Rights.

Recommendation 1463 (2000) on the second world summit on social development

Reply of 4 July 2001, Document 9175 of the Assembly

The Committee of Ministers attaches great importance to the United Nations General Assembly special session, which has implications for the Council of Europe's Strategy for social cohesion. It continues to give the Organisation a higher profile at major world events in its fields of competence.

Assistance programmes with countries of central and eastern Europe have been stepped up significantly in the social field and will continue in this way.

In addition, the Committee of Ministers recalls the role of the Council of Europe's Development Bank in the social investment field and the one which the North-South

Centre can be expected to play in order to bring together all relevant parties to consider the social implications of globalisation.

Recommendation 1487 (2000) on the development of a new social system

Reply of 4 July 2001, Document 9178 of the Assembly

The Committee of Ministers mentions the works already, or in the course of being, accomplished in the field of the strengthening of participatory democracy.

Recommendation 1426 (1999) on European democracies facing up terrorism

Reply of 18 July 2001, Document 9180 of the Assembly

In view of the recent tragic developments in this area, reference is made to the most recent developments by the Committee of Ministers.

Recommendation 1473 (2000) on the honouring of obligations and commitments by Croatia

Reply of 12 September 2001, Document 9204 of the Assembly

The Committee of Ministers notes that co-operation between the Croatian authorities and the Council of Europe has been instrumental for the progress achieved so far and underlines the need for such co-operation to continue in future. It encourages the Croatian authorities to make further progress on all the matters mentioned in its reply.

Recommendation 1506 (2001) on freedom of expression and information in the media in Europe

Reply of 19 September 2001, Document 9213 of the Assembly

The Committee of Ministers reaffirms the highest importance it attaches to the unfettered exercise of freedom of expression and information and its determination to maintain a strong emphasis on this sector in the intergovernmental work programme of the Organisation. It recalls the texts it adopted and the priority it gave to this question in the context of its thematic monitoring procedure. Particular emphasis has been put on assistance and co-operation programmes in the media field, which are targeted and adapted to the specific needs of member states and applicant countries. It takes this opportunity of calling on member states and observers with the Council of Europe as well as the European Union to consider contributing greater financial and technical resources to these programmes.

Recommendation 1513 (2001) on the honouring of obligations and commitments by Ukraine

Reply of 19 September 2001,
Document 9214 of the Assembly

The Committee of Ministers continues to follow the situation as regards honouring of Ukraine's commitments and implementation of on-going and proposed co-operation activities with the Council of Europe.

Recommendation 1396 (1999) on religion and democracy

Reply of 19 September 2001,
Document 9215 of the Assembly

The Committee of Ministers widely concurs with the basic premises of the Assembly and believes that government authorities should not interfere with freedom of religion or put religious pluralism at risk.

Recommendation 1474 (2000) on the situation of lesbians and gays in Council of Europe member states

Reply of 19 September 2001,
Document 9217 of the Assembly

The Committee of Ministers stresses that a broad range of legal instruments and activities within the Council of Europe have the potential to address the problem.

In accordance with the wishes of the drafters of Protocol No. 12 to the European Convention on Human Rights (general prohibition of discrimination), the Committee of Ministers does not think appropriate to consider the inclusion of sexual orientation amongst the grounds for discrimination explicitly mentioned in the said Protocol. The case-law of the Court plays its role in this respect by condemning this type of discrimination and by inciting member states to reform any discriminatory legislation or regulations.

Recommendation 1412 (1999) on illegal activities of sects

Reply of 19 September 2001,
Document 9220 of the Assembly

The Committee of Ministers underlines that a number of member states, in response to one of the Recommendation's requests, have set up independent information centres.

If the Council of Europe, for resource reasons, is not in a position to set up a European observatory on groups of a religious, esoteric or spiritual nature, it does not exclude the possibility of facilitating and promoting networking and exchange of information between existing national information centres.

Human Rights: priorities

The events of 11 September

Important decisions were taken, which highlight the particular role of the Council of Europe in combating international terrorism. The Council of Europe has a great potential of legal instruments to improve cooperation between states, and the Committee of Ministers called on member states to make use of it and to develop it further. To strengthen cooperation, the Committee of Ministers exhorted member states to fasten the setting up of the International Criminal Court. It also wants to investigate into the causes of terrorism and avoid ill-considered reactions against the Muslim community.

The situation in the Balkans

was paid particular attention by the Committee of Ministers: a package of measures was prepared, in close cooperation with the OSCE and the European Union, to contribute to the implementation of the framework agreement of 13 August in "the former Yugoslav Republic of Macedonia". Concerning Bosnia and Herzegovina, the Committee of Ministers adopted a declaration welcoming the acceptance of a new electoral legislation, which represents a step towards accession of this country to the Council of Europe. It supports the process of democratic reforms in the Federal Republic of Yugoslavia and more particularly the action for the protection of minorities.

In the Caucasus and other countries of central and eastern Europe

The situation in Chechnya has been regularly discussed with the Russian authorities, which were requested to co-operate fully with the European Committee on the Prevention of Torture (see the Declaration in the appendix), and to take effective steps to prevent, and to prosecute perpetrators of torture. The Committee of Ministers also followed closely the situation in Georgia, Armenia, and Azerbaijan. It requested a fact-finding visit to Ukraine, and supports the democratic transition in Belarus.

The European Court of Human Rights

and the risks that its excessive workload represents for its effectiveness, is, for the Committee of Ministers, an essential concern, which it shares with the Assembly.

In the field of death penalty

The Committee of Ministers is keen to achieve synergies for its abolition in Council of Europe observer states and in those member states which have not yet *de jure* abolished it.

Recommendation 1441 (2000) on the situation in Belarus

Reply of 21 September 2001,
Document 9230 of the Assembly

The Committee of Ministers still considers Belarus as an applicant state for membership and stresses that it is for the Belarusian authorities to take the steps that would allow the Assembly to lift the suspension of the special guest status.

Recommendation 1528 (2001) on the situation in “the former Yugoslav Republic of Macedonia”

Reply of 21 September 2001,
Document 9231 of the Assembly

The Committee of Ministers informs the Assembly of the means it used to give effect, *inter alia*, to the requests of Recommendation 1528 calling on for intensification of co-operation programmes and assistance to the authorities of this country in the organisation of a reliable population census.

Written Question No. 390 on Turkey and the European Court of Human Rights

Reply of 12 September 2001,
Document 9206 of the Assembly

The execution of judgments referred to in the Question is regularly supervised by the Committee of Ministers. Significant progress has been achieved in certain areas, but nevertheless full and proper execution of the Court's judgments has not been secured in all cases. The Turkish authorities are expected to give information in the near future which will enable the Committee of Ministers to take a decision on this matter.

Written Question No. 396 on the recognition of the territorial integrity of Azerbaijan by Armenia

Reply of 19 September 2001,
Document 9212 of the Assembly

The Committee of Ministers explicitly reaffirmed its support for the respect of all internationally recognised borders, sovereignty and territorial integrity of all members of the Council of Europe, whilst equally acknowledging the value of other principles of international law, such as the right to self-determination of peoples.

It appeals to the two member states concerned to find a compromise in accordance with these principles and to avoid any statement in favour of a military solution or likely to strengthen enmity and hatred.

Recommendation 1533 (2001) on the honouring of obligations and commitments by Georgia

Reply of 17 October 2001,
Document 9271 of the Assembly

In order to prepare a final reply to the Recommendation, the Committee of Ministers requested the Secretary General to send a Secretariat mission to Georgia with a view to getting relevant information and to assisting the Georgian authorities to fulfil all their commitments.

The full versions of all texts adopted by the Committee of Ministers may be consulted on its Internet site.

Internet site: <http://www.coe.int/cm/>



The Parliamentary Assembly is the parliamentary body of the Council of Europe, composed of delegates from the national parliaments of the Council's forty-three member states. It meets four times a year. The Standing Committee, acting in the name of the Assembly, meets at least twice a year. Human rights figures prominently among the subjects debated by the Assembly.

Human rights situation in member and non-member states

Azerbaijan and the Nagorno Karabakh conflict

Written question No. 397 to the Committee of Ministers, Document 9235, 26 September 2001

Worried about the statements of Azerbaijan officials at the highest level, which suggest a military solution to the Nagorno Karabakh conflict, Mr Hovhannisyan (Armenia) requests the Committee of Ministers to invite the Republic of Azerbaijan to refrain from statements that call for a military solution to the said conflict, and to fully respect its obligations to find a negotiated peaceful solution to it.

Situation in “the Former Yugoslav Republic of Macedonia”

Resolution 1261 (2001) and Recommendation 1537 (2001), 27 September 2001

The Assembly reaffirmed the principles underpinning its position on the issue of “the Former Yugoslav Republic of Macedonia” (Macedonia): full respect for the sovereignty and territorial integrity of Macedonia, respect for the rights of all citizens and ethnic groups, condemnation of armed action by extremist Albanian ethnic groups and the need for their complete disarmament, condemnation of all extremist violence in general.

Remaining firmly convinced that the conflict can only be settled by peaceful means, the Assembly advocates the immediate dissolution of all paramilitary structures. It welcomes the signature of the Framework Agreement in Skopje on 13 August 2001, aimed at ensuring the future of democracy in the country, and urges the political forces involved to do their utmost to implement it.

In connection with the human dimension of the conflict, the Assembly recommends introducing security and confidence-building measures to enable displaced persons to return home in safety, and appeals for increased humanitarian aid in order to relieve the human suffering.

In the recommendation, the Assembly invites the Committee of Ministers of the Council of Europe to concentrate, as a priority, the Organisation's efforts in Macedonia on confidence-building measures, legislative reforms – in particular in the field of local self-government – education, and return of displaced persons to their homes.

Honouring of obligations and commitments by Georgia

Resolution 1257 and Recommendation 1533 (2001), 25 September 2001

The Assembly found that Georgia had made some progress, but was far from honouring all the commitments it made on joining the Organisation.

It noted a gap between the formal laws and their practical implementation, and expressed deep concern about various matters: allegations of ill-treatment and torture of

Adopted texts

The Assembly makes public its work by means of adopted texts. Of these there are four types:

Opinions are mostly expressed by the Assembly on questions put to it by the Committee of Ministers, such as the admission of new member states to the Council of Europe, but also on draft conventions, or the budget.

Recommendations contain proposals addressed to the Committee of Ministers, the implementation of which is within the competence of governments.

Resolutions embody decisions by the Assembly on questions which it is empowered to put into effect or expressions of view for which it alone is responsible. They can also be addressed to national parliaments.

Orders concern issues of form, execution or procedure which the Assembly addresses to one or more of its committees.

detainees, behaviour of the police and security forces, violence by Orthodox extremists against religious minorities.

It welcomed the granting of autonomous status to Ajaria, but regretted that there was little progress on the settlement of regional conflicts in South Ossetia and Abkhazia.

It resolved to pursue the monitoring procedure in order to help the country to fulfil its obligations and commitments as a member state of the Council of Europe.

In the recommendation, the Assembly asks the Committee of Ministers to pursue or strengthen co-operation with the Georgian authorities as regards defined matters.

Situation of Orthodox believers in Estonia

Written Question No. 399 to the Committee of Ministers, Document 9242, 8 October 2001

Mr Rogozin (Russia) asks the Committee of Ministers what measures it intends to take to invite the Republic of Estonia to amend its new law on churches and parishes, which he considers as discriminatory towards the various churches, and to solve the issue of the registration of the Charter of the Estonian Orthodox Church of the Moscow Patriarchy, to which belongs the overwhelming majority of Orthodox believers.

Situation in Chechnya

Progress report on the activities of the joint working group on Chechnya, Document 9227, 24 September 2001

The Joint working group (JWG) on Chechnya was set up by the Assembly to keep under constant review the progress made on the Parliamentary Assembly of the Council of Europe's and of the State Duma's recommendations. It is composed of representatives of these two organs.

For the year 2001, the JWG centred its work on the three following priority subjects:

1. Finding a political solution to the conflict

The JWG is now one of the few international platforms where politically meaningful and sufficiently practical discussions on a political solution are currently taking place.

At the end of various consultations with Chechen representatives, a dialogue started between Chechens representing various political backgrounds. If it is too early to speak about substantial and tangible improvements, this change of attitude represents an encouraging progress in a complex conflict.

2. Respect for human rights

Despite the difficulties it encounters, the JWG exerts itself to obtain from Russian authorities detailed information on all criminal investigations by military and civilian prosecutors into crimes against the civilian population in the Chechen Republic.

3. Humanitarian situation

The JWG will pursue its work in this field. As a matter of fact, it emerges from meetings between the JWG

and representatives of the United Nations High Commissioner for Refugees and with non-governmental organisations that there are still some 150 000 internally displaced people in Ingushetia, with dire living conditions. The unsatisfactory security situation in Chechnya would be the main factor which prevents the displaced from returning to their homes, as well as the lack of housing and unemployment.

In conclusion to its report after its first six months of activity, the JWG judges the substantial changes which remain to be achieved, while noting some positive changes of attitudes: its meetings with the highest Russian representatives in key areas allow it to exert continuing political pressure for positive change, and consultations with Chechen representatives opened a new chapter with regard to a political solution to the conflict.

A public statement from the European Committee for the Prevention of Torture concerning the Chechen Republic – a procedure used when a country fails to co-operate or refuses to improve the situation in the light of the recommendations made to it – appears in the appendix.

Russian Federation and Georgia

Written Question No. 401 to the Committee of Ministers, Document 9268, 16 October 2001

Mr Adamia (Georgia) asks the Committee of Ministers whether it will react to the visa requirements with Georgia introduced by Russia, in a way judged as discriminatory, and which facilitates the movement of Boeviks from Russian territory to the territory of Georgia which is not controlled by the Georgian authorities.

Turkey

Written Question No. 398 to the Committee of Ministers, Document 9236, 26 September 2001

Mr Hovhannisyan (Armenia) asks the Committee of Ministers to persuade the Turkish authorities to cease without delay their policy of blockading Armenia.

Written Question No. 402 to the Committee of Ministers, Document 9272, 25 October 2001

Considering that, despite numerous judgments by the European Court of Human Rights and demands by the Committee of Ministers, Turkey continues to violate the obligation provided by the European Convention on Human Rights to bring an arrested person promptly before a judge, Mr Clerfayt (Belgium) asks the Committee of Ministers what measures it intends to take to ensure that Turkey complies with the Court's judgments.

Declaration by the President of the Parliamentary Assembly about the constitutional reform adopted by Turkey, 4 October 2001

The President of the Assembly welcomed the constitutional reform approved on 3 October 2001 by the Turkish Parliament, which constitutes an important step forward in meeting the Council of Europe's standards of democracy and





Lord Russell-Johnston
President of the Council of Europe Parliamentary Assembly
Human rights and wrongs
Speeches and articles 2000

Human rights and wrongs – Speeches and articles

Lord Russell-Johnston

92-871-4662-4

Compendium of speeches to the Assembly in 2000 by Lord Russell-Johnston, President of the Council of Europe Parliamentary Assembly.

Available in English and French, this publication may be obtained from Council of Europe Publishing, <http://book.coe.int/> or e-mail publishing@coe.int/.

human rights. It brings important improvements with several concerns expressed by the

Assembly in its monitoring report in June 2001, such as the minorities, the functioning of democratic institutions, and the scope of political freedoms and human rights in general.

He welcomed the decision to limit the death penalty, but wished to recall the Council of Europe's unconditional opposition to capital punishment, including for terrorist offences.

Honouring of obligations and commitments by Ukraine

Resolution 1262 and Recommendation 1538 (2001), 27 September 2001

The Assembly said that Ukraine had made significant progress over recent months towards the honouring of its obligations and commitments as a member of the Council of Europe and that in the event that Ukraine should manage to fulfil the remaining commitments by the end of the year, the formal monitoring procedure could be considered at an end.

It nonetheless denounced deficiencies, *inter alia* in the field of freedom of expression: acts of intimidation and violence against journalists, parliamentarians and opposition politicians, unexplained murders or disappearances.

Democracy and legal development

Democracies facing terrorism

Resolution 1258 and Recommendation 1534 (2001), 26 September 2001

The Assembly declared itself horrified by the events of 11 September, which violated the most fundamental human right: the right to life. It called on the international community to give all necessary support to the Government of the United States of America, notably for bringing the perpetrators of these attacks to justice, but in line with existing international law and with the agreement of the United Nations Security Council.

It describes these attacks as crimes rather than as acts of war, and regards the new International Criminal Court as the appropriate institution to judge them.

It recommends a range of measures to improve the fight against terrorism and supports the idea of elaborating an international convention for signature at the highest level.

Rights of national minorities

Written Question No. 400 to the Committee of Ministers, Document 9243, 8 October 2001

Recalling that the Assembly in the last decade has made an important contribution to developing legal standards concerning the protection of national minorities, particularly with the adoption of Recommendation 1492, Mr Nagy (Hungary) asks the Committee of Ministers what its evaluation is of the effectiveness of the legal instruments already in use, and how it plans to take forward the implementation of the said recommendation.

Progress of the Assembly's monitoring procedure (2000-2001)

Resolution 1260 and Recommendation 1536 (2001), 26 September 2001

The Assembly recalls the great importance of the post-monitoring process introduced in 2000, which enables it to maintain a constructive dialogue with the member states which have not yet reached the stage where they fully honour all their obligations and commitments. The reports arising from this work constitute records of progress being made by member states towards the Organisation's high standards of democracy, human rights and the rule of law, and, as such, are, furthermore, an invaluable source of reference for the European Union in dealing with the membership applications to it of the countries concerned.

It considers that this work must be accompanied with a policy of encouraging freedom of information and debate in countries whose obligations and commitments are monitored. If countries are to make progress towards European democratic standards, the public must be aware of the existence of these standards, and be capable of understanding the problems existing in their countries and supporting the reform proposals that the Organisation deems essential.

It asks the Committee of Ministers to avoid any duplication between the monitoring procedures undertaken by the two organs, which could lead to diverging assessments.

European Court of Human Rights

Structures, procedures and means of the Court

Recommendation 1535 (2001), 26 September 2001

The Assembly called for a rapid deployment of sufficient staff and financial resources to enable the Court to alleviate the alarming situation in which it finds itself as a result of the ever-growing number of individual applications (553% over 3 years).

It pointed out that direct application of the Court's case-law by the judiciary of member states, its incorporation into the internal legislations, and the adoption of appropriate general measures by states to avoid violations of same type – notably excessive length of proceedings – should lead to a considerable reduction of the number of applications.

It recommends that the Committee of Ministers begin work on a protocol amending the European Convention on Human Rights aimed at ensuring the long-term effectiveness of the Court through an adaptation of its working methods and procedures.

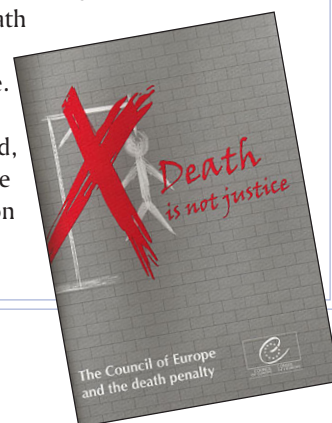
The full version of the texts adopted by the Assembly is available on its Internet site.

Internet site: <http://stars.coe.int>

Death is not justice

Everything about the Council of Europe and the death penalty : answers and questions on why the death penalty was abolished in Europe, a detailed country survey, in the member states, applicant or observer states to this organisation. In appendix: the key text in the subject, Protocol No. 6 to the Convention for the protection of Human Rights concerning the abolition of the Death Penalty and a chart of date of signatures and ratifications of this Protocol, ratified by 39 of 43 member states.

This booklet has been drawn up by the Directorate General of Human Rights and the Secretariat of the Parliamentary Assembly following the First World Congress Against the Death Penalty held by the Council of Europe in June. Available, free of charge, in English and French, and, shortly, in Albanian, at the Human Rights Information Centre.



Commissioner for Human Rights

The Office of the Commissioner is an independent institution entrusted with the task of promoting both the notion of human rights and effective implementation and full enjoyment of those rights in the member states of the Council of Europe. The Commissioner publishes information on his activities by means of reports, recommendations and other documents.



Alvaro Gil Robles has been Commissioner since September 1999. His term is for six years.

Visits to the Russian Federation

The Commissioner travelled to Moscow, three times between July and October, to discuss with the Russian authorities his proposal to hold a seminar in Strasbourg on the cessation of violence and the restoration of the rule of law as preconditions for the effective enjoyment of human rights in Chechnya. The Commissioner was in Moscow at the end of July, on 13 and 14 September and again towards the end of October. Only the second of these visits was official and resulted in a report.

Moscow, 13-14 September 2001

The visit had the dual aims of securing the acceptance by the Russian authorities of the above-mentioned seminar and gathering information on the progress of investigations into human rights violations committed in the Chechen Republic.

With regard to the second of these objectives, the Commissioner was able to take note, in a meeting with the civil and military prosecution services, of their increased openness and expressed desire to more effectively investigate and prosecute human rights abuses, which, despite the difficulties they were facing, had resulted in some progress being made. It was noted, however, that complaints of abuses committed by the Russian armed forces and a general climate of impunity persisted and that much remained to be achieved.

The proposed seminar was officially accepted during this visit. It was agreed that the Commissioner should invite representatives from all Chechen society, particularly its civil society, including those elements whose political ambitions were hostile to the Russian Federation. The participants would include members of the federal and local administration, judges, lawyers and the prosecution services. Russian NGOs particularly active in the region would also be invited. The seminar will take place on 26 and 27 November 2001 under the title of "The respect for and protection of human rights in the Republic of Chechnya".

First annual report

The Commissioner has submitted to the Committee of Ministers and to the Parliamentary Assembly his first annual report on the exercise of his functions. It covers his activities between 1 October 1999 and 1 April 2001, with reports of official visits, speeches by the Commissioner, and conclusions of seminars and conferences. It is available in electronic form on the Commissioner's Internet site. A printed version should be published shortly.

First recommendation

Rights of aliens wishing to enter a Council of Europe member state and the enforcement of expulsion orders

This first recommendation of the Commissioner, addressed to all member states of the Council of Europe, was published on 19 September 2001 following the seminar which he organised on this subject in June 2001. The recommendation focused on the treatment of aliens on arrival, the conditions of detention and expulsion procedures. It was insisted in respect of the first, that all aliens had the right to be heard on arrival, and to request asylum if necessary. It follows that *refoulement* straight off the plane is unacceptable. Detention, if necessary, ought not to be effected in penitentiary establishments or police stations, but in special centres and for legally defined periods, with no hindrance on access to lawyers and NGO assistance. The desirability of encouraging voluntary return and the need for the effective training of immigration officers were emphasised in respect of the expulsion of aliens. It was recommended that certain practices, including the wearing of masks and the use of gags or tranquillisers be prohibited outright.

Speeches, seminars and conferences

Seminar on “The protection of the human rights and the special situation of elderly persons in old peoples’ homes or other institutions”

Organised in co-operation with the Institute of Health Law of the University of Neuchâtel, the seminar took place from 21 to 23 October 2001. It concentrated on the special situation of elderly persons in old peoples’ homes, the reasons and criteria for placement of elderly persons in semi-open or closed institutions, and involuntary treatment. Participants included government officials from various member states, national and international NGO representatives and other experts in the area.

The seminar conclusions emphasised the importance of autonomy and the desirability of improving domestic services to those elderly persons who preferred to remain at home. The desirability of accreditation mechanisms for old peoples’ homes and other institutions were stressed, as were the need for effective controls. The appointment of guard-

ians, preferably independent from both the institution and the family, was suggested as a means of protecting the rights of elderly persons through the provision of advice and representation before various authorities. The conclusions stressed the need for elderly persons to be able to report possible abuses of their rights and to be able to effectively defend them before an independent body. Though new legislation specific to elderly persons, was not called for and risked having a stigmatising effect, the drawing up of a European charter of minimum standards to be observed in the care of elderly persons was encouraged as was the idea of establishing a European Observatory for monitoring the respect for their rights.

Press conference

The Commissioner gave a press conference on “Respect for human rights in times of crisis” at the headquarters of Radio France, in Paris, on 5 October 2001.

Internet site: <http://www.commissioner.coe.int>



Conferences and other meetings

Irregular migration and dignity of migrants: co-operation in the Mediterranean region

Athens, 3 and 4 October 2001

This Conference, organised by the Council of Europe, dealt with three main themes: the causes of irregular migration, the preservation of irregular migrants' human dignity and a migration management strategy.

European identity: History and religion – 2nd part of the Council of Europe Colloquy on European identity

Strasbourg, 8 and 9 October 2001

This colloquy aimed to discuss, in a context of multiple identities, the reasons for the religious, intellectual and cultural antagonisms that still divide Europe, and ways of resolving them.

A third round table is scheduled in 2002, at the close of which a "Declaration on European identity" will be drawn up, in consultation with all the Council of Europe bodies.

Meeting on the reducing of delays in civil proceedings

Madrid, 11, 12 and 13 July 2001

This meeting was organised by the Council of Europe in co-operation with the Spanish Judiciary Council. The participants agreed that they would be in a better position to find solutions to promote the effectiveness of justice at a national level by examining the causes of undue delay and by sharing their experiences in this field. They identified a number of guidelines, which are contained in the conclusions, available from the Press Service (tel: +33 3 88 41 25 60 or e-mail: pressunit@coe.int).

24th Conference of the European Justice Ministers

Moscow, 4 and 5 October 2001

The Ministers proposed an action plan to fight terrorism, by adapting existing international treaties and elaborating new ones, and by boosting legal co-operation in this field.

In other respects, they urged action to improve the enforcement of court decisions, and adopted a resolution focussing on the need to provide decent detention conditions for those serving long-term sentences.

Co-operation programme between the Council of Europe and Russia for strengthening the rule of law in this country

A delegation of Russian legal experts led by Deputy Head of the Russian Presidential Administration visited the Council of Europe to discuss the ongoing judicial reform in Russia. The reform concerns a number of key issues, such as the abolition of the death penalty, the role of the Prosecutor General's Office, introduction of jury trials, the status of judges and organisation of the bar.

Consultation meetings in the Council of Europe for an early establishment of the International Criminal Court

The Second Consultation Meeting on the ratification of the Statute of the International Criminal Court addressed, *inter alia*, issues of national and international immunities, the surrender of persons to the future Court, the transit of persons over the territory of a State, the enforcement of sentences that will be handed down by the Court, and the reform of national substantive criminal law.

Publication

The emergence of human rights in Europe – An anthology (2001)

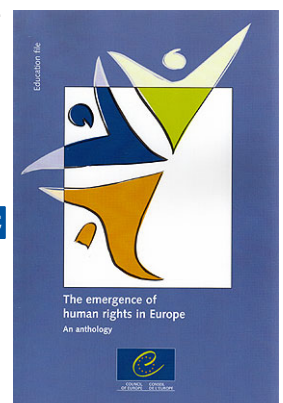
J. Carpentier, H. Hinke, R. Minerath, W. Schmale, J. Zaryn

92-871-4514-8

The aim of this anthology is ambitious – to publish those texts which, in the sixteen contributing countries, have caused the idea of human rights to take root and grow in the minds of people.

This publication may be obtained from Council of Europe Publishing.

Internet site : <http://book.coe.int>



Appendix

Public statement by the CPT concerning the Chechen Republic of the Russian Federation (issued on 10 July 2001)

Since the beginning of the current conflict in the Chechen Republic, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has visited the North Caucasian region on three occasions. For the last eighteen months, the Committee has striven to maintain a constructive and sustained dialogue with the Russian authorities on various issues related to the treatment of persons deprived of their liberty in that part of the Russian Federation. Following an exchange of detailed correspondence in May and June 2001, it has become clear that this dialogue has reached an impasse on at least two issues of great concern to the CPT.¹ Those issues relate to:

1. events in the early stages of the conflict in a detention facility located at Chernokozovo, a village in the North-West of the Chechen Republic;
2. action taken to uncover and prosecute cases of ill-treatment of persons deprived of their liberty in the Chechen Republic in the course of the conflict.

I. The information gathered by the CPT during its visits to the North Caucasian region in late February/early March and in April 2000 strongly indicated that many persons were physically ill-treated in a detention facility at Chernokozovo during the period December 1999 to early February 2000. Ever since the beginning of March 2000, the CPT has been urging the Russian authorities to carry out a thorough and independent inquiry into events at this detention facility during that period. To date, an inquiry of the kind requested by the CPT has not been carried out and the Russian authorities have now made it clear that they have no intention of organising such an inquiry. A particularly disturbing aspect of the Russian authorities' current position is their contention that no facilities intended for accommodating detainees were established by public authorities in the area of Chernokozovo during the period referred to by the CPT.

It is an indisputable fact that a detention facility operated at Chernokozovo during the period December 1999 to early February 2000, prior to the formal setting up in that village of a pre-trial establishment (SIZO No. 2) by a Ministry of Justice Order dated 8 February 2000. The CPT's delegation interviewed many persons who stated that they had been held in a detention facility at Chernokozovo during that period. Numerous Russian officials (prosecutors, investigators, custodial staff) met by the delegation confirmed that the establishment designated as from 8 February 2000 as SIZO No. 2 had prior to that date been used as a detention facility. The CPT is in possession of a copy of the medical journal of the establishment covering the period 8 November 1999 to 12 February 2000, in which the day by day arrival of detain-

ees (and any injuries they bore) was recorded; the staff who completed that journal referred to the establishment first as an "IVS" (temporary detention facility) and at a later stage as a "temporary reception and distribution centre". The Russian authorities have themselves, in earlier correspondence, provided to the CPT written statements signed by officers attesting to the fact that they worked in the detention facility during the period December 1999 to early February 2000 as well as written statements signed by persons who certified that they were held at Chernokozovo during that period.

The Russian authorities' contention that no detention facilities were established by public authorities at Chernokozovo during the period in question (and that, as a result, an inquiry of the kind requested can serve no purpose) is clearly untenable and constitutes a failure to cooperate with the CPT.

II. Quite apart from the specific question of the detention facility at Chernokozovo, the information gathered by the CPT's delegation in the course of its February/March and April 2000 visits indicated that a considerable number of persons deprived of their liberty in the Chechen Republic since the outset of the conflict had been physically ill-treated by members of the Russian armed forces or law enforcement agencies. In the report on those two visits, the CPT recommended that the Russian authorities redouble their efforts to uncover and prosecute all cases of ill-treatment of persons deprived of their liberty in the Chechen Republic in the course of the conflict. The Committee made a number of remarks of a practical nature intended to clarify the precise form those efforts might take. More generally, the CPT stressed that it was essential for the Russian authorities to adopt a proactive approach in this area.

The response of the Russian authorities to this key recommendation was very unsatisfactory. No concrete information was provided as regards the action taken by the Russian authorities – and in particular by the prosecutorial services – to step up inquiries into the treatment of persons deprived of their liberty by members of the Russian armed forces or law enforcement agencies and to bring to justice those responsible for ill-treatment.

As was stressed in a letter sent to the Russian authorities on 10 May 2001, the CPT's concerns in this regard are all the greater given that in the course of the Committee's most recent visit to the Chechen Republic, in March 2001, numerous credible and consistent allegations were once again received of severe ill-treatment by Federal forces; in a number of cases, those allegations were supported by medical evidence. The CPT's delegation found a palpable climate of fear; many people who had been ill-treated and others who knew about such offences were reluctant to file complaints to the authorities. There was the fear of reprisals at local level

¹ The CPT reserves the right to publish that exchange of correspondence if this were to become appropriate.

and a general sentiment that, in any event, justice would not be done. It was emphasised to the Russian authorities that they must spare no effort to overcome this deeply disturbing state of affairs.

In its letter of 10 May 2001, the CPT called upon the Russian authorities to provide a full account of action taken to implement the above-mentioned recommendation. In that connection, it requested details of measures apparently envisaged to reinforce the different prosecutorial services involved in investigating allegations of ill-treatment, to improve co-operation between those services, and to ensure a better follow-up of complaints of unlawful actions by military forces and law enforcement agencies. The CPT also made proposals designed to reinforce the support provided to the criminal justice system by the forensic medical services in the Chechen Republic. Further, the CPT requested up-to-date information from both the Chechen Republic Prosecutor's Office and the Military Prosecutor's Office concerning cases which involve allegations of ill-treatment of persons deprived of their liberty in the Chechen Republic. More specifically, the CPT asked for a detailed account of progress made concerning the criminal investigation into the deaths of those persons (apparently 53 in number) whose bodies were found on a datcha estate not far from Khankala in February 2001. According to the information gathered during the March 2001 visit, there were clear indications on some of the bodies that the deaths were the result of summary executions; further, certain of the bodies had been identified by relatives as those of persons who had disappeared following their detention by Russian forces. The CPT underlined that this case could be seen as a test of the credibility of the criminal justice system vis-à-vis events in the Chechen Republic.

In their reply forwarded on 28 June 2001, the Russian authorities indicate that they are not willing to provide the information requested or to engage in a discussion with the CPT on the matters indicated above; they assert that such matters do not fall within the Committee's purview under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Such an approach is inconsistent with the object and purpose of the international treaty establishing the CPT and can only be qualified as a failure to co-operate with the Committee.

It is axiomatic that one of the most effective means of preventing ill-treatment of persons deprived of their liberty lies in the diligent examination by the relevant authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong deterrent effect. Conversely, if the relevant authorities do not take effective action upon complaints referred to them, those minded to ill-treat persons deprived of their liberty will quickly come to believe that they can act with impunity. It is therefore not only

legitimate but even essential that the CPT, a body set up with a view to strengthening the protection of persons deprived of their liberty from torture and other forms of ill-treatment, take a direct interest in the activities of the authorities empowered to conduct official investigations and bring criminal charges in cases involving allegations of ill-treatment.

In the light of the Russian authorities' reply, it is also necessary to recall what is meant in Article 2 of the Convention by the expression "any place within [a State's] jurisdiction where persons are deprived of their liberty by a public authority". Such a place may be a formally established and recognised detention facility; it may also be a railway carriage, a van, a shed, a garage, a warehouse, or any other improvised facility used by members of a public authority for the purpose of depriving someone of their liberty. The CPT's mandate and its powers under the Convention cover the treatment of persons while they are deprived of their liberty in any such place.

The CPT is fully aware of the extremely difficult and perilous circumstances confronting the Russian authorities as a result of the conflict in the Chechen Republic and has kept those circumstances constantly in mind. The CPT is also aware that grave crimes and abuses have been committed by combatants opposing the Russian forces; those acts should be strongly condemned. However, State authorities must never allow their response to such a situation to degenerate into acts of torture or other forms of ill-treatment; to refrain from resorting to such acts – and to take active steps to stamp them out when they emerge – is one of the hallmarks of a democratic State.

In ratifying the major human rights instruments of the Council of Europe, the Russian Federation has demonstrated that it subscribes to the above-mentioned principle. Bearing that in mind, the CPT calls upon the Russian authorities to work in a constructive manner with the Committee in the context of its activities in the Chechen Republic. The Russian authorities have always shown good co-operation as regards security and transport arrangements during the CPT's visits to the Chechen Republic; the same level of co-operation should apply as regards the action taken upon the Committee's findings and recommendations.

The CPT regrets that it was found necessary to make this public statement. The Committee hopes that it will stimulate the efforts of both parties – acting in co-operation – to strengthen the protection of persons deprived of their liberty in the Chechen Republic from torture and inhuman or degrading treatment or punishment. The CPT remains fully committed to continuing its dialogue with the Russian authorities.

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