ISSN 1608-9618

H/Inf (2002) 6

Human rights information bulletin

Looking to the north

Vilnius, capital of Lithuania, was the setting for the Committee of Ministers' 110th session and the opening for signature of Protocol No. 13 to the European Convention on Human Rights.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

No. 56, March-June 2002

Contents

Human rights information bulletin, No. 56

1 March-30 June 2002

Published three times a year by: Directorate General of Human Rights, Council of Europe, F-67075 Strasbourg Cedex.
This issue published September 2002. ISSN: 1608-9618 (print edition) and 1608-7372 (electronic edition). Internet address: http://www.humanrights.coe.int/.

European Convention on Human Rights

More detailed information is available in the "Simplified chart of signatures and ratifications of European human rights treaties" in the appendix, or on the Treaty Office's web site, http://conventions.coe.int/.

Opening for signature

On 3 May 2002, Protocol No. 13 to the European Convention on Human Rights was opened for signature in Vilnius. It was signed that day by Andorra, Austria, Belgium, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom; and ratified by Ireland, Malta and Switzerland.
With Protocol No. 6, and a moratorium in the countries that have not yet ratified it, the 44 Council of Europe member states already constituted a death-penalty-free zone in peacetime. Protocol No. 13 provides the organisation with an instrument that prohibits capital punishment, whatever the circumstances.
The full text of the protocol, together with its explanatory memorandum, appears in Appendix 1.

Other signatures and ratifications

Armenia

On 26 April 2002 Armenia ratified the European Convention on Human Rights, together with Protocols Nos. 1, 4, 6 and 7 to the Convention.

Azerbaijan

On 15 April 2002 Armenia ratified the European Convention on Human Rights, together with Protocols Nos. 1, 4 and 7 to the Convention.

Bosnia and Herzegovina

On 24 April 2002 Bosnia and Herzegovina signed the European Convention on Human Rights, together with Protocols Nos. 1, 4, 6, 7 and 12 to the Convention.

Croatia

On 6 March 2002 Croatia signed Protocol No. 12 to the the European Convention on Human Rights.

Cyprus

On 30 April 2002 Cyprus ratified Protocol No. 12 to the the European Convention on Human Rights.

Georgia

On 7 June 2002 Georgia ratified Protocols Nos. 1 and 12 to the the European Convention on Human Rights.

Malta

On 5 June 2002 Malta signed and ratified Protocol No. 4 to the European Convention on Human Rights.

New reservations and declarations

Armenia

European Convention on Human Rights
Reservation contained in the instrument of ratification deposited on 26 April 2002 – Or. Engl.
In accordance with Article 57 of the Convention (as amended by Protocol No. 11) the Republic of Armenia makes the following reservation:
The provisions of Article 5 shall not affect the operation of the Disciplinary Regulations of the Armed Forces of the Republic of Armenia approved by Decree No. 247 of 12 August 1996 of the Government of the Republic of Armenia, under which arrest and isolation as disciplinary penalties may be imposed on soldiers, sergeants, ensigns and officers.

[There follows the relevant extract from the Disciplinary Regulations of the Armed Forces.]

Azerbaijan

European Convention on Human Rights

Declaration contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Convention in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation.

Reservation contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
According to Article 57 of the Convention, the Republic of Azerbaijan makes a reservation in respect of Articles 5 and 6 to the effect that the provisions of those Articles shall not hinder the application of extrajudicial disciplinary penalties involving the deprivation of liberty in accordance with Articles 48, 49, 50, 56-60 of the Disciplinary Regulations of Armed Forces adopted by the Law of the Republic of Azerbaijan No. 885 of 23 September 1994.
[There follows the relevant extract from the Disciplinary Regulations of the Armed Forces.]

Reservation contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
According to Article 57 of the Convention, the Republic of Azerbaijan makes a reservation in respect of Article 10, paragraph 1, to the effect that the provisions of that paragraph shall be interpreted and applied in accordance with Article 14 of the Law of the Republic of Azerbaijan "on Mass Media" of 7 December 1999.
[There follows the relevant extract from the Law of the Republic of Azerbaijan "on Mass Media" of 7 December 1999.]

Protocol No. 1 to the Convention

Declaration contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation.

Declaration contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
The Republic of Azerbaijan declares that it interprets the second sentence of Article 2 of the Protocol in the sense that this provision does not impose on the State any obligation to finance religious education.

Protocol No. 4 to the Convention

Declaration contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation.

Protocol No. 6 to the Convention

Declaration contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation.

Protocol No. 7 to the Convention

Declaration contained in the instrument of ratification deposited on 15 April 2002 – Or. Engl.
The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Protocol in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation.

Georgia

Protocol No. 1 to the Convention

Declaration contained in the instrument of ratification deposited on 7 June 2002 – Or. Engl./Geo.
[Text not available at the time of going to press.]

Reservation contained in the instrument of ratification deposited on 7 June 2002 – Or. Engl./Geo.
[The reservation concerns Article 1. Text not available at the time of going to press.]

Reservation contained in the instrument of ratification deposited on 7 June 2002 – Or. Engl./Geo.
[The reservation concerns Article 2. Text not available at the time of going to press.]

Protocol No. 12 to the Convention

Declaration contained in the instrument of ratification, deposited on 15 June 2001 – Or. Engl./Geo
Georgia declines its responsibility for the violations of the provisions of the Protocol on the territories of Abkhazia and Tskhinvali region until the full jurisdiction of Georgia is restored over these territories.

Internet: http://conventions.coe.int

European Court of Human Rights

Introduction

Between 1 March 2002 and 30 June 2002, the Court dealt with 6845 (6951) cases:

– 5537 (5559) applications declared inadmissible
– 245 (276) applications struck off the list
– 244 (248) applications declared admissible
– 573 (603) applications communicated to governments
– 246 (265) 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

Kingsley v. The United Kingdom

Judgment of 28 May 2002 (principal judgment of 7 November 2000)

Alleged violations of: Articles 6 § 1 (access to court and fairness of the proceedings) and 41 (just satisfaction) of the Convention

Principal facts and complaints

The applicant was the managing director of a company which owned and controlled six casinos in London. The application concerned procedures before the Gaming Board for Great Britain, a statutory body which inspects and monitors the gaming industry. The Gaming Board decided, *in camera*, to revoke his certificates of approval required to hold a management position in the gaming industry, judging him not to be "a fit and proper person" for such employment. The applicant sought leave to apply for judicial review of the decision to revoke his certificates, claiming that the Panel which decided the matter was biased and had already decided to revoke his certificate of approval before the proceedings had begun. The application for judicial review was dismissed and the "doctrine of necessity" – i.e., that the decision had to be made by the Gaming Board because there was no other authority competent in the matter and that everything possible had been done to avoid any potential bias – was invoked. The applicant's request for leave to appeal was also rejected.

In its judgment of 7 November 2000, the Chamber found a violation of Article 6 § 1 of the Convention, owing to the fact that the Gaming Board did not have the necessary character of an impartial tribunal, and that the subsequent judicial review had not been sufficient to remedy this. The applicant had been awarded a sum in respect of his legal costs and the expenses of the Strasbourg proceedings, considering that no causal link had been established between the violation and the alleged pecuniary damages and that the finding of the violation constituted in itself sufficient just satisfaction for non-pecuniary damages.

The applicant requested that the case be referred to the Grand Chamber, referring only to issues under Article 41 of the Convention, giving rise to the present decision.

Decision of the Court

The Grand Chamber unanimously confirmed the finding that there had been a violation of Article 6 § 1 of the Convention and held by ten votes to seven that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant. It furthermore awarded a sum in respect of domestic costs and expenses and in respect of costs and expenses before the Court and Commission.

Stafford v. the United Kingdom

Judgment of 28 May 2002

Alleged violations of: Articles 5 §§ 1 and 4 (liberty and security of person) of the Convention

Principal facts and complaints

The applicant was convicted of murder in 1967. He was released early on licence in 1979 and then detained again in 1989 for breach of conditions. In November 1990 the Parole Board recommended his release on life licence which was accepted by the Secretary of State. He was released in March 1991. In July 1994 he was convicted of cheque fraud and sentenced to six years' imprisonment. His life licence was revoked by the Secretary of State. In 1996-97, when normally he would have been released from the fraud sentence, the Secretary of State, using the discretionary powers at his disposal, rejected the Parole Board's recommendation that the applicant be released. The House of Lords confirmed this decision. The applicant was eventually released on licence in 1998.

The applicant complained that his detention from July 1997 until his release on licence on 22 December 1998 was arbitrary and had no relation to the original basis of his detention. He also complained that he did not have the right to have the lawfulness of his continued detention decided by a court at reasonable intervals.

Decision of the Court
- Article 5 § 1

The Court could not accept that a decision-making power by the executive to detain the applicant on the basis of perceived fears of future non-violent criminal conduct unrelated to his original murder conviction was in the spirit of the Convention, with its emphasis on the rule of law and protection from arbitrariness.

The Court concluded, therefore, that the applicant's detention after 1 July 1997 was not justified.

- Article 5 § 4

The Court found that, for the period of detention in question, the lawfulness of the applicant's continued detention was not reviewed by a body with a power to order release or with a procedure containing the

necessary judicial safeguards, including, for example, the possibility of an oral hearing.

Beyeler v. Italy

Judgment of 28 May 2002 (principal judgment of 5 January 2000)

Decision in respect of just satisfaction (Article 41 of the Convention)

Principal facts and complaints

The case concerned a restitution claim for a painting which the applicant had bought through an intermediary. Eleven years later, when the applicant wished to sell the painting to an American company, the Italian Ministry of Culture Heritage exercised its right of pre-emption and purchased the painting at the 1977 sale price. The Italian Government argued that the applicant had omitted to inform it that the original purchase had been made on his behalf.

The applicant's primary claim was for restitution of the painting. He also claimed compensation for the damage sustained as a result of the length of time for which he had been deprived of the painting and the consequent loss of use of the amount he would have received had it been possible to perform the contract signed with the American corporation, less the amount paid him by the ministry on pre-emption of the sale.

Decision of the Court

The Court considered that the nature of the violation found in its principal judgment of 5 January 2000 did not allow for restitution of the property. However, although it had not called into question the right of pre-emption, the Court had held that the conditions in which it had been exercised (five years after the ministry had become aware of the irregularities of which the applicant was accused) had occasioned loss for the applicant as a result of the uncertainty and precariousness which had prevailed throughout that period. The Court went on to consider that Mr Beyeler should be compensated for the loss sustained as a result of being paid the same price in 1988 as he had paid in 1977, without any adjustment.

The Court decided to award the applicant a sum in compensation for the damage sustained, including ancillary costs incurred in determining the legal position with regard to the painting and costs incurred before the domestic courts and before the Convention institutions.

Selected chamber judgments of the Court

Kutić v. Croatia

Judgment of 1 March 2002

Alleged violations of: Article 6 § 1 (access to a court and right to a judgment within a reasonable time) of the Convention

The case concerns compensation claims following various explosions which destroyed the applicants' property. The court stayed both sets of proceedings, in accordance with a 1996 legislative amendment enacted by the Croatian Parliament, providing that all proceedings concerning actions for damage resulting from terrorist acts be stayed pending the enactment of new legislation on the subject.

The Court found that the Croatian Government's failure to enact new legislation constituted a violation of the applicants' right to a fair hearing and therefore awarded them a sum for non-pecuniary damages

Gawęda v. Poland

Judgment of 14 March 2002

Alleged violations of: Article 10 (freedom of expression) of the Convention

The applicant's request for the registration of a periodical under the title "The Social and Political Monthly – A European Moral Tribunal" on the ground that the name proposed by the applicant implied that a European institution had been established in Kety, which was untrue and misleading. The applicant refused to change the title by deleting the "European Moral Tribunal", as proposed by the court of first instance. Later, his request for registration of another periodical, entitled "Germany – a thousand-year-old enemy of Poland" was also dismissed, the court considering that the title proposed unduly concentrated on negative aspects of Polish-German relations, thus giving an unbalanced picture of the facts.

In the view of the Court, the requirement that the title of a magazine embody truthful information was an inappropriate restriction on freedom of the press. A title of a periodical was not a statement as such, since its function, essentially, was to identify the given periodical for its readers. The interpretation given by the Polish courts introduced new criteria for the acceptability of magazine titles which could not be foreseen from the legal text in question. The Court concluded, therefore, that because this law was not formulated with sufficient precision to enable the applicant to regulate his conduct, the restrictions imposed on him were not prescribed by law, within the meaning of Article 10. The Court therefore concluded that there had been a violation of Article 10.

The Court awarded the applicant a sum for non-pecuniary damages and for costs and expenses.

Paul and Audrey Edwards v. the United Kingdom

Judgment of 14 March 2002

Alleged violations of: Articles 2 (obligation to protect the right to life and obligation to conduct effective investigation) and 13 (effective remedy) of the Convention

The case concerned the killing of the applicants' son, who had been tentatively diagnosed as schizophrenic, while in detention for acts probably linked to his condition. The applicants' son had been placed in a cell with R.L., a dangerous schizophrenic with a history of violent outbursts and assaults, who stamped and kicked his cellmate to death. A series of shortcomings and malfunctions in the emergency call system prevented the guards from intervening. R.L. was convicted of manslaughter by reason of diminished responsibility and the Coroner's Inquest into the death of the applicants' son was closed following the conviction. A private inquiry concluded that the applicants' son and R.L. should not have been in prison and in practice they should not have been sharing a cell. It also identified a number of serious shortcomings in the systems which could have protected the victim. The applicants were advised that there were no civil remedies available to them in the light of the findings of the inquiry and the Crown Prosecution Service maintained their previous decision that there was insufficient evidence to proceed with criminal charges.

– Concerning the alleged violation of the obligation to protect the right to life, the Court held that the circumstances surrounding the death of the applicants' son revealed serious shortcomings in the functioning of the agencies involved in this case, thereby constituting a violation of this right.

– Concerning the obligation to carry out an effective investigation, the Court concluded that the lack of power to compel witnesses and the private character of the proceedings failed to comply with the requirements of Article 2 to hold an effective investigation into the applicants' son's death. There had accordingly been a violation of the procedural obligation of Article 2.

The Court found that the applicants did not have access to an appropriate means of obtaining a determination of their

allegations that the authorities failed to protect their son's right to life or the possibility of obtaining an enforceable award of compensation for the damage suffered. The Court found that no separate issues arose under Articles 6 and 8.

The Court awarded the applicants a sum for non-pecuniary damage and costs and expenses.

Sabuktekin v. Turkey

Judgment of 19 March 2002

Alleged violations of: Articles 2 (right to life) and 13 (effective remedy) of the Convention

The case concerned the death of the applicant's husband, an active member of a pro-Kurdish political party. The Adana anti-terrorist brigade, following upon its investigation into the case, arrested several suspects, all of whom were acquitted by the National Security Court for lack of evidence as to their involvement in the case.

– As to the allegations that the applicant's husband had been killed by the security forces or at their instigation, the Court noted that the statement by the applicant's brother-in-law was not corroborated by any other evidence and held that there had been no violation of Article 2 on that point.

– As regards the investigation into the death, the Court noted that although the investigation had not resulted in the killer or killers being identified, it had not been totally ineffective and did not constitute a violation of the obligation to protect the right to life. Considering that the respondent state could be regarded as having conducted an effective criminal investigation in accordance with Article 13, the Court concluded that there had been no violation on this point.

– The Court furthermore held that it was unnecessary to examine the applicant's complaints under Article 6 § 1 (access to a court).

Nikula v. Finland

Judgment of 21 March 2002

Alleged violations of: Article 10 (freedom of expression) of the Convention

The applicant was convicted of defamation "without better knowledge" for having publicly objected to the public prosecutor's decisions in a case in which she was acting as defence council.

The Court observed that the applicant's objections concerned only the prosecution strategy and were not made with regard to prosecutor's professional or other qualities. Moreover, the applicant's submissions were confined to the court room and the presiding judge did not react to the applicant's criticism on the spot. The Court duly considered that the restriction of defence counsel's freedom of expression was not proportionate to the legitimate aim sought to be achieved.

The Court awarded the applicant a sum for non-pecuniary damage, pecuniary damage and costs and expenses.

Butkevičius v. Lithuania

Judgment of 26 March 2002

Alleged violations of: Articles 5 § 1 (liberty and security of person) and § 4 (access to judicial review of detention within reasonable time) and 6 § 2 (presumption of innocence) of the Convention

The applicant, a former Minister of Defence and a member of the Lithuanian Parliament, was apprehended in 1997 in a hotel lobby by the security intelligence and the prosecuting authorities while accepting an envelope containing 15,000 United States dollars from K.K., a senior executive of an oil company. K.K. had previously informed the intelligence authorities that the applicant had requested 300,000 USD for his assistance in obtaining the discontinuance of criminal proceedings concerning the company's vast debts.

Once the applicant's parliamentary immunity had been lifted, criminal proceedings were instituted against him in August 1997 and, in October 1997, he was charged with attempting to obtain property by deception, of which he was eventually found guilty.

– The applicant's complaints regarding the unlawful nature of certain periods of his detention on remand, given the lack of any legal order to the effect, and his inability to contest the lawfulness of his detention were upheld by the Court.

– The Court also found that certain statements of the Prosecutor General and the Chairman of the Seimas published in the media were contrary to the principle of the presumption of innocence.

It awarded the applicant sums for non-pecuniary damage and for costs and expenses.

Slodoban Milošević's case against the Netherlands declared inadmissible

Mr Milošević complained under Articles 5 (right to liberty and security), 6 (fair trial), 10 (freedom of expression), 13 (effective remedy) and 14 (prohibition of discrimination) of the manner of his arrest and detention and of the conduct of proceedings to which he is a party before the International Criminal Tribunal for the Former Yugoslavia.

His application was rejected for non-exhaustion of domestic remedies.

Podkolzina v. Latvia

Judgment of 9 April 2002

Alleged violations of: Article 3 of Protocol No. 1 (right to free elections)

The applicant, a Latvian national and member of the Russian-speaking minority, stood as a candidate in the parliamentary elections. The Central Electoral Commission struck the applicant's name off the list of candidates owing to her insufficient knowledge of the official language, Latvian. An examiner from the State Language Centre had paid the applicant an unexpected visit at her place of work and asked her to write an essay in the presence of witnesses. Being extremely nervous, the applicant stopped writing and tore up her work. The examiner consequently concluded that the applicant did not have an adequate command of the official language and her name struck off the list of candidates. When examining the applicant's application for judicial review, the Riga Regional Court had accepted the results of the impugned examination as incontrovertible and leave to appeal further was rejected.

The Court noted that although the applicant held a valid language certificate in due form she had nonetheless been required to sit a further language examination. The assessment had been left to the sole discretion of a single official, whose discretionary powers the Court considered to be excessive and who had furthermore questioned the applicant about the reasons for her political affinities. Consequently, the Court considered that, in the absence of any objective guarantees, the procedure followed in the applicant's case was incompatible with the procedural requirements of fairness and legal certainty for determining eligibility for election.

It awarded the applicant sums for non-pecuniary damage and for costs and expenses.

Cisse v. France

Judgment of 9 April 2002

Alleged violations of: Article 11 (freedom of assembly and association) of the Convention

The applicant, of Senegalese national, was the spokeswoman for a group of aliens without residence permits and from June 1996 to August 1996 occupied St. Bernard's Church in Paris along with some 200 other illegal immigrants. The aim of the occupation was to focus attention on the difficulties encountered by aliens in obtaining a review of their immigration status in France. To that end, ten members of the group went on hunger strike. The police evacuated the premises and a number of aliens were detained and subsequently deported. The applicant was given a two-months' suspended sentence and an order excluding her from French territory for three years.

The Court considered that the evacuation of the church amounted to an

interference with the exercise of the applicant's freedom of peaceful assembly, but that this interference pursued a legitimate aim: the prevention of disorder. The Court further noted that the evacuation was not disproportionate in view of the hunger strikers' health and the deteriorated sanitary conditions on the premises. The presence of the applicant and the other aliens had been of sufficient symbolic and evidential weight for the interference, after the long period in question, not to appear excessive in this case.

S.A. Dangeville v. France

Judgment of 16 April 2002

Alleged violations of: Article 1 of Protocol No. 1 (protection of property) and Article 14 (prohibition of discrimination) of the Convention

The applicant is a company of insurance brokers whose business activity was subject to value added tax (VAT). It therefore paid VAT on the business it had conducted in 1978. The provisions of the Sixth Directive of the Council of the European Communities, which were applicable from 1 January 1978, exempted from VAT "insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents", but the French State was given extra time in which to implement the Directive. The applicant sought a refund of the VAT paid for the year 1978. The Administrative Court and subsequently the Conseil d'Etat dismissed its claim and this judgment was declared *res juridicata*. However, in a judgment of the same date concerning an application brought by another company, whose business activity and claims were initially identical to those of the applicant, the Conseil d'Etat departed from its earlier decision and upheld that company's claim for a refund by the State of sums wrongly paid.

The applicant, arguing that it was a creditor of the State but had been definitively deprived of the possibility of enforcing its debt by the decisions of the Conseil d'Etat dismissing its claims, alleged a breach of the right to protection of property. It also complained of a violation of the prohibition of discrimination on the ground that companies which had not paid VAT had been in an advantageous position compared to taxpayers who had spontaneously filed their VAT returns and that another company had benefited from a departure from the earlier decision and obtained a VAT refund despite the fact that their situations were identical.

The Court noted that on both its applications the applicant was a creditor of the State on account of the VAT wrongly paid for the year of 1978 and that in any event it had at least a legitimate expectation of being able to obtain a refund. The Court found that the interference with the applicant's possessions upset the fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. It concluded unanimously that there had been a breach of Article 1 of Protocol No. 1 and held that it was unnecessary to examine separately the complaint based on Article 14.

It awarded the applicant sums for pecuniary damage and costs and expenses.

Stés Colas Est and Others v. France

Judgment of 16 April 2002

Alleged violations of: Article 8 (respect for home and private life) of the Convention

The applicant companies, which are road construction companies, were being investigated as part of an administrative inquiry in which investigators from the Directorate General for Competition, Consumer Affairs and Repression of Fraud entered the premises of the applicant companies pursuant to the provisions of a 1945 order and seized several thousand documents from which they ascertained that illicit agreements had been made in respect of certain contracts.

The applicant companies alleged that the investigating officers had conducted the seizures without any supervision or restriction and that this amounted to trespass against their "home".

The Court held that the time had come to acknowledge that in certain circumstances the rights guaranteed by Article 8 of the Convention could be construed as including the right to respect for a company's head office, branch office or place of business. The Court found that the investigators had entered the applicants' premises without a warrant, which amounted to trespass against their "home".

It awarded the applicant companies sums for non-pecuniary damage and for costs and expenses.

Pretty v. the United Kingdom

Judgment of 29 April 2002

Alleged violations of: Articles 2 (right to life), 3 (prohibition of inhuman and degrading treatment), 8 (respect of private life), 9 (freedom of thought and conscience) and 14 (prohibition of discrimination) of the Convention

The applicant was dying of motor neurone disease, a degenerative disease affecting the muscles, and wished to be able to control the time and manner of her death. She wished to be assisted by her husband in committing suicide as she was unable to do so unaided. Although suicide itself is not a crime in English law, it is however a crime to assist another to commit suicide and the English authorities had refused her request to guarantee her husband freedom from prosecution if he did so.

The applicant complained that (i) the right to die is the corollary of the right to life and that the state is accordingly obliged to provide a scheme in domestic law to enable the exercise of that right, (ii) the United Kingdom Government is obliged to take positive steps to protect persons within its jurisdiction from being subjected to inhuman and degrading treatment, (iii) the right to respect for private life explicitly recognises the right to self-determination and that the failure to provide a lawful scheme for allowing assisted suicide violates her right to manifest her beliefs and (iv) the blanket prohibition on assisted suicide discriminates against those who are unable to commit suicide without assistance.

The Court gave this case priority and, upon examination, came to the following conclusions concerning the important legal questions it poses:

– Article 2 cannot be interpreted as conferring the diametrically opposite right, namely a right to die, whether at the hands of a third person or with the assistance of a public authority, nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life.

– Article 3 cannot be interpreted as creating a positive obligation on the part of the state to sanction acts intended to terminate life.

– The Court does not consider that the blanket nature of the ban on assisted suicide is disproportionate. The English law on suicide is designed to protect the lives of weak and vulnerable persons and reflects the importance of the right to life. This should not prevent the judicial authorities from showing a certain flexibility in the application and interpretation of the law. But to exonerate the applicant's husband from prosecution in advance would mean creating a category of individuals exempt from the law, and in this case with regard to extremely serious acts.

– To the extent that the applicant's views with respect to Article 9 reflect her commitment to the principle of personal autonomy, her claim is a restatement of the complaint raised under Article 8 of the Convention.

– The Court found that there are sound reasons for not introducing into the law distinctions between those who are able and those who are unable to commit suicide unaided. The borderline between the two categories will often be a very fine one and to seek to build into the law an exemption for those judged to be incapable of committing suicide would seriously undermine the protection of life which the Act on suicide was intended to safeguard and greatly increase the risk of abuse.

McVicar v. the United Kingdom

Judgment of 7 May 2002

Alleged violations of: Articles 6 § 1 (fair trial) and 10 (freedom of expression) of the Convention

The applicant is a journalist and broadcaster who wrote a magazine article in which he suggested that the athlete Linford Christie used banned performance-enhancing drugs. Mr Christie brought an action for defamation against the applicant who represented himself during the greater part of the proceedings because he could not afford to pay legal fees and because legal aid was not available for defamation actions. The applicant wished to rely on the evidence of an athlete and an osteopath who allegedly told the applicant that he could tell by the look and feel of an athlete's body whether that athlete had taken performance-enhancing drugs. The trial judge declared the osteopath's testimony inadmissible on the ground that it would be unfair to deprive Mr Christie of the time necessary to call counter-evidence, and that of the athlete on the ground that it would be unfair to Mr Christie to be faced with wide allegations about his drug-taking, the details of which he would not know until the witness took the stand. The trial judge also found that ordering an adjournment would itself be prejudicial to Mr Christie because the applicant did not have sufficient means to provide an indemnity for the extra costs which would be incurred as a result. The applicant was ordered to pay costs and was made subject to an injunction preventing him from repeating the allegations.

The applicant contended that the unavailability of legal aid in defamation proceedings violated his right to effective access to court under Articles 6 § 1 and 10 and that the exclusion of witness evidence and the burden of proof which he faced, together with the order that he pay Mr Christie's costs and the injunction prohibiting repetition of the allegations, violated his right to freedom of expression under Article 10 of the Convention.

– Concerning Article 6 § 1, the Court concluded that the applicant had not been prevented from presenting his defence effectively to the High Court, nor had he been denied a fair trial, by reason of his ineligibility for legal aid. Furthermore, the rules pursuant to which the applicant's witness evidence was excluded were clear and unambiguous and had the applicant taken measures at an early stage to amend his defence strategy the judges might have exercised their discretion differently.

– Concerning Article 10, the Court held that, in view of the preceding conclusion, that the lack of legal aid did not violate the applicant's right to freedom of expression. With regard to the two witnesses, the Court noted that they had been excluded from the trial after a thorough weighing of the competing public interests involved, and this on two levels of jurisdiction. In light of the circumstances surrounding the case, it concluded that the decision sentencing the applicant to pay the costs of the action, the injunction restraining him from repeating the allegations which he had published in his article and the burden of proof regarding these allegations which fell upon him constituted a justifiable restriction of his freedom of expression, being necessary for the protection of the reputation and rights of Mr Christie.

Burdov v. Russia

Judgment of 7 May 2002

Alleged violations of: Articles 6 § 1 (fair trial) of the Convention and Article 1 of Protocol No. 1 (protection of property)

The applicant was called up by the military authorities to take part in emergency operations at the site of the Chernobyl nuclear disaster, where he suffered extensive exposure to radioactive emissions. In 1991 he was awarded compensation. In 1997 he brought proceedings against the social security service as the compensation had not been paid and the City Court found in his favour, awarding him the outstanding compensation and a penalty. In 1999 he brought an action against the social security service to challenge a reduction in the amount of the monthly payment and to recover the unpaid compensation. The City Court restored the original amount of the compensation, determined the amount of subsequent monthly compensation payments to be paid to the applicant and ordered the payment of outstanding sums. However, the applicant was informed on a number of occasions between September 1999 and May 2000 that the payments could not be made because of lack of funding. Following new proceedings and a decision taken by the Ministry of Finance, the social security service paid the applicant the outstanding debt in March 2001. This last payment took place only after the application to the European Court of Human Rights had been communicated to the Government.

The Court considered that by failing for years to take the necessary measures to comply with the final judicial decisions, the Russian authorities had deprived the provisions of Article 6 § 1 of all useful effect; there had, therefore, been a violation of Article 6 § 1.

It awarded the applicant sums for non-pecuniary damage.

Altan v. Turkey

Judgment of 14 May 2002

Alleged violations of: Article 10 (freedom of expression) of the Convention

The applicant is a writer and journalist, who published and article describing events experienced by the Kurds as though they had been experienced by the Turks. He was given a suspended sentence by the National Security Court of one year and eight months' imprisonment and a fine for inciting to hatred and hostility on the basis of a distinction based on membership of a race or a religion.

The case was struck out following a friendly settlement. The Turkish Government subsequently made a statement in which it recognised that Turkish law and practice must be brought into conformity with the requirements of the Convention as a matter of urgency.

D.G. v. Ireland

Judgment of 16 May 2002

Alleged violations of: Articles 3 (prohibition of inhuman and degrading treatment), 5 §§ 1 (liberty and security of person) and 5 (right to compensation), 8 (respect for private and family life) and 14 (prohibition of discrimination) of the Convention

The applicant was a minor with a criminal history who was considered to have a personality disorder and to be a danger to himself and others. It was decided that he should be placed in a high-support therapeutic unit but, as there were no secure educational facilities available in Ireland, the High Court decided that D.G. should be detained for three weeks in St. Patrick's Institution, this being the "least offensive" of the various "inappropriate" options available. The High Court's order was renewed on the same basis several times before he was moved to temporary accommodation.

The applicant complained that his detention in St Patrick's was in breach of Article 5 § 1 of the Convention and that he had no enforceable right to compensation. He also complained that, although he was a minor in need of special care, he was detained in a penal institution, that his unique status (as someone not charged or convicted) meant other detainees believed he was a serious sexual offender, leading to his being insulted, humiliated, threatened and abused and that he was hand-cuffed to a prison officer each time he was brought before the courts.

The Court came to the following conclusions with regard to the applicant's different complaints:

– The Court considered that the applicant's detention could not be considered to have been an interim custody measure preliminary to a regime of supervised education within the meaning of Article 5 § 1.

– Having found that D.G.'s detention constituted a violation of Article 5 § 1 and that the detention orders were lawful in domestic law, the Court concluded that he had no enforceable right to compensation, in violation of Article 5 § 5.

– The Court accepted that the intent of the High Court, in ordering the applicant's detention, was protective and that it could not be concluded that it constituted "punishment" within the meaning of Article 3. Neither did the Court consider that the evidence submitted supported a conclusion that D.G.'s detention in a penal institution could, of itself, constitute

"inhuman or degrading" treatment. Furthermore, the fact that the applicant was subject to prison discipline did not, of itself, give rise to an issue under Article 3, given his history of criminal activity, of self-harm and of violence to others. The Court did not find that handcuffing the applicant in public amounted to a violation of Article 3. Moreover, he had provided no evidence of the allegation of mental or physical suffering arising from his detention nor of ill-treated by fellow inmates.

– The Court concluded that the applicant's complaint concerning the lawfulness of his detention did not give rise to any separate issue under Article 8 and that otherwise there had not been a violation of Article 8 and that, in so far as the applicant compared his situation to that of other minors, the Court considered that no separate issue arose under Article 14.

Jokela v. Finland

Judgment of 21 May 2002

Alleged violations of: Articles 6 § 1 (fair trial) and Article 1 of Protocol No. 1 (protection of property) of the Convention

This case concerned the difference in the value attributed to land and property taken into account during the calculation of expropriation indemnities (7.50 Finnish marks (FIM) per square metre in 1990) and of the inheritance tax (FIM 20) for the same property after the death of the owner in 1993.

– The Court considered that there was neither consistency nor an explanation for the lack of consistency and that there had been a violation of Article 1 of Protocol No. 1.

– Concerning the complaints raised under Article 6 § 1, the Court found no violation of the right to a fair trial arising from the allegedly unfounded decision of the Land Court to reject the applicants' appeal and its refusal to hear two witnesses.

It awarded the applicants sums for pecuniary damage, non-pecuniary damage and costs and expenses.

Wessels-Bergervoet v. the Netherlands

Judgment of 4 June 2002

Alleged violations of: Article 14 (prohibition of discrimination) of the Convention taken with Article 1 of Protocol No. 1 (protection of property)

The applicant, a Dutch national, and her husband were granted an old age pension as of 1 August 1984. Her husband's pension was reduced by 38% because he had not been insured under the General Old Age Pension Act ("AOW") during a period totalling 19 years, when he had worked in Germany and had been insured under German social security legislation. The applicant was granted an old age pension under the AOW as from 1 March 1989 on the same basis as her husband's pension, reduced by 38%.

Arguing that a married man in the same situation would not have had his pension reduced for this reason, the applicant complained that the reduction in her pension was the result of discriminatory treatment.

The Court held that there had been a violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1.

Olivieira v. the Netherlands

Judgment of 4 June 2002

Alleged violations of: Article 8 (respect for private and family life) of the Convention and Article 2 of Protocol No. 4 (freedom of movement)

After having been found in possession of hard drugs, the Burgomaster of Amsterdam imposed a prohibition order on the applicant, banning him for 14 days from a designated emergency area in the city centre where he neither lived nor worked. He was convicted and sentenced for failing to comply with this prohibition order.

The Court held that there had been no violation of Article 2 of Protocol No. 4 of the European Convention on Human Rights and that no separate issue arose under Article 8.

Sadak and Others v. Turkey

Judgment of 11 June 2002

Alleged violations of: Articles 6 § 1 (fair trial), 7 (no punishment without law), 9 (freedom of thought), 10 (freedom of expression), 11 (freedom of association) and 14 (prohibition of discrimination) of the Convention and Articles 1 (protection of property) and 3 (right to free elections) of Protocol No. 1

The applicants were thirteen Turkish nationals members of the Turkish Grand National Assembly and a political party, the DEP. A few months after the DEP was formed in 1993, state counsel applied for an order for its dissolution, on the ground that it had infringed constitutional rules and the Law on Political Parties in that some of its members and its former chairman had made statements that were apt to undermine the integrity of the State and the unity of the nation. The party was dissolved and some of the party members were arrested and convicted by the Ankara National Security Court under the Prevention of Terrorism Act of crimes including propagating separatist propaganda and for being members of or aiding and abetting an armed gang.

– Concerning Article 3 of Protocol No. 1, the Court considered that the dissolution of the DEP with immediate effect and the ban that prevented party members from exercising their mandate or carrying on political activities was incompatible with the very essence of the right to stand for election and to hold parliamentary office and that it had infringed the unfettered discretion of the electorate which had elected the applicants.

– In the light of its finding in respect of Article 3 of Protocol No. 1, the Court held that it was unnecessary to examine this complaint separately.

It awarded the applicants sums for damages and costs and expenses.

Willis v. the United Kingdom

Judgment of 11 June 2002

Alleged violations of: Articles 13 (effective remedy) and 14 (prohibition of discrimination) taken with Article 8 (respect for private and family life) of the Convention and with Article 1 of Protocol No. 1 (protection of property)

The applicant, an unemployed widower, complained about the discrimination he suffered in respect of the decision to refuse him the Widow's Payment and Widowed Mother's Allowance, and in respect of his future non-entitlement to a Widow's Pension, notwithstanding the social security contributions made by his wife.

The Court considered that the refusal to grant the applicant the Widow's Payment and Widowed Mother's Allowance constituted discrimination. Concerning the applicant's non-entitlement to the Widow's Pension, the Court did not find any difference in treatment because even if the applicant had been a woman he would not have qualified for this pension.

The Court recalled that Article 13 did not go so far as to guarantee a remedy allowing a Contracting State's primary legislation to be challenged before a national authority on the grounds that it was contrary to the Convention.

It awarded sums for pecuniary damage and costs and expenses.

Anguelova v. Bulgaria

Judgment of 13 June 2002

Alleged violations of: Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (liberty and security of person), 13 (effective remedy) and 14 (prohibition of discrimination) of the Convention

The case concerned the death of the applicant's son (A.Z.), aged 17, while in police custody following his arrest for attempted theft. An inquiry established that A.Z. had died of an accidental injury sustained sometime before his arrest.

The applicant alleged that her son died after being ill-treated by police officers, that the police failed to provide adequate medical treatment for his injuries, that the authorities failed to undertake an effective investigation, that her son's detention was unlawful, that she did not have an effective remedy and that there had been discrimination on the basis of her son's Roma (Gypsy) origin.

– Concerning the question as to whether A.Z. died as a result of ill-treatment inflicted while in police custody, the Court, having regard to all the relevant circumstances, found implausible the Government's explanation and therefore found a violation of Article 2.

– Concerning the alleged failure to provide timely medical care, the Court observed that this delay had contributed in a decisive manner to his death and the lack of any reaction by the authorities constituted a violation of the State's obligation to protect the lives of those in custody.

– Concerning the alleged ineffective investigation, the Court noted a number of defects in the investigation which lead it to conclude that the investigation was not sufficiently objective and thorough.

– With regard to the complaint under Article 3, noting that the Government had not provided a plausible explanation for the injuries to A.Z.'s body and that those injuries were indicative of inhuman treatment beyond the threshold of severity permitted under Article 3, the Court held that there had been a violation of Article 3.

– In respect of the complaint under Article 5 § 1, the lack of a written order and of a proper record of A.Z.'s detention was sufficient for the Court to find that his detention was not based on a written order as required by the National Police Act and that his deprivation of liberty was not duly recorded. The Court therefore held that there had been a breach of this article.

– The Court found that, although the applicant's allegations of discrimination were based on serious arguments, it was unable to conclude that they had been proved beyond reasonable doubt. There had therefore been no violation of Article 14.

Öneryildiz v. Turkey

Judgment of 18 June 2002

Alleged violations of: Article 2 (right to life) of the Convention and Article 1 of Protocol No. 1 (protection of property)

At the material time the applicant and the twelve members of his family were living in a shanty town on land surrounding a rubbish tip which had been the object of an expert report transmitted to the four district councils which used it. The report drew the authorities' attention to the danger of a possible explosion of the methane gas being given off by the decomposing refuse. A methane gas explosion occurred, killing nine members of the applicant's family. The mayors in question were sentenced to pay fines, but the court ordered a stay of execution of those fines. Subsequently, the applicant lodged an action for damages in the Istanbul Administrative Court in which the authorities were ordered to pay the applicant and his children TRL 100,000,000 in non-pecuniary damages and TRL 10,000,000 in pecuniary damages (the equivalent at the material time of approximately 2,077 and 208 euros respectively).

The applicant complained that the death of the nine members of his family had resulted from the relevant authorities' negligence and complained of the deficiencies in the administrative and criminal proceedings instituted subsequently and of the excessive length of the proceedings and the lack of fairness of the proceedings for compensation brought in the administrative courts.

– With regard to the responsibility on account of the death of the applicant's relatives, the Court found it to be established that there had been a causal link between the authorities' negligence and the accident and that the authorities had failed in their duty to inform the inhabitants of the area of the danger.

– Concerning the redress offered by legal remedies in respect of the criminal action, such reticence on the part of the criminal courts had been tantamount, the Court found, to granting virtual impunity to the mayors. With regard to the administrative action, the applicant's right to compensation had not been acknowledged until four years, eleven months and ten days after his first claims for compensation had been dismissed and that the compensation awarded to him of EUR 2,077 had not yet been paid.

Accordingly, the Court held that there had been a violation of Article 2 of the Convention on account of the death of the applicant's relatives and the ineffectiveness of the Turkish judicial machinery as implemented.

– Concerning the alleged violation of the right to the protection of property, the Court considered that the dwelling constructed and the fact that the applicant had lived in it with his family represented a substantial pecuniary interest which, tolerated as it was by the authorities, amounted to a possession for the purposes of Article 1 § 1 of Protocol No. 1. It held that the accumulation of omissions by the administrative authorities constituted a clear infringement of the applicant's right to peaceful enjoyment of his possessions, which could be construed as an "interference", manifestly contrary to domestic law since those negligent omissions by the authorities had been penalised under Turkish administrative and criminal law. The Court observed that the administrative court had been prejudiced in its determination of the indemnity for pecuniary damage and noted that the handling of the applicant's claims for pecuniary damages had been characterised by a lack of care and speed with a view to awarding him proportionate compensation. Accordingly, it could not accept that the national authorities had acknowledged – and subsequently compensated – the alleged violation.

The Court awarded the applicant 154,000 euros in pecuniary and non-pecuniary damages and costs and expenses.

Colombani and Others v. France

Judgment of 25 June 2002

Alleged violations of: Article 10 (freedom of expression) of the Convention

In November 1995 the newspaper *Le Monde*, of which Mr Colombani is the publishing director, published an article by Mr Incyan about a confidential version of a report by the Geopolitical Drugs Observatory (OGD) on drug production and trafficking in Morocco. A summary of Mr Incyan's article appeared on the front page of the newspaper under the headline "Morocco: the world's leading hashish exporter" and the main article was subheaded "A confidential report casts doubt on King Hassan II's entourage". The King of Morocco lodged an official application for criminal proceedings to be brought against the newspaper *Le Monde*. Mr Colombani and Mr Incyan were prosecuted under section 36 of the Law of 29 July 1881 for insulting a foreign head of state. They were acquitted by the Paris Criminal Court. The King of Morocco and the public prosecutor appealed against that decision and the Paris Court of Appeal held that the article had been inspired by malicious intent and found that the facts of the case taken as a whole showed a lack of good faith. It consequently convicted the applicants of insulting a foreign head of state, sentenced them to a fine and ordered *Le Monde* to publish particulars of the convictions. The Criminal Division of the Court of Cassation dismissed their appeal after finding that their comments had been offensive and maliciously aimed at drawing the reader's attention to the King personally.

After observing that the interference with the exercise of the right to freedom of expression of the applicants had pursued a legitimate aim, namely, the protection of the reputation or rights of others, the Court examined the question of whether this was necessary in a democratic society. It noted that the content of the OGD's report was not disputed and that the allegations it contained could legitimately be regarded as credible and that it was reasonable to have relied on the report without checking its accuracy. The Court further noted that, unlike defendants in defamation proceedings, persons accused of insulting foreign heads of state were not entitled to defend themselves by adducing evidence that the allegations were true. Prosecution for that offence was a disproportionate means of protecting the reputation or rights of others, even when the persons concerned were heads of state or of government. In addition, the domestic courts had been inclined to recognise that the offence under section 36 of the Law of 29 July 1881, as construed by the courts, infringed freedom of expression as guaranteed by Article 10, particularly since there is already sufficient criminal remedy in the form of prosecution for defamation or for proffering insults. These provisions were liable to confer on heads of state a special status that derogated from the general law and could not be reconciled with modern practice and political conceptions.

The Court accordingly held that there had been a violation of Article 10 and awarded the applicants sums for pecuniary damage and costs and expenses.

Judgments of the Court between 1 March and 30 June 2002 for which a press release was issued

Applicant Göç
Defendant state Turkey
Articles concerned 6 § 1
Date 06/03/2002

Applicant Sawden
Defendant state the United Kingdom
Articles concerned 8, 13 and 1 of Protocol No. 1
Date 12/03/2002

Applicant De Diego Nafría
Defendant state Spain
Articles concerned 10
Date 14/03/2002

Applicant Adamogiannis
Defendant state Greece
Articles concerned 6 § 1
Date 14/03/2002

Applicant Puzinas
Defendant state Lithuania
Articles concerned 8
Date 14/03/2002

Applicants Malveiro
Defendant state Portugal
Articles concerned 6 § 1
Date 14/03/2002

Applicant Devenney
Defendant state the United Kingdom
Articles concerned 6 § 1, 13 and 14
Date 19/03/2002

Applicant Demetriu
Defendant state Romania
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 19/03/2002

Applicants Granata, Vallar, Van Der Kar, Lissaur Van West, Benzi, Arnal, Goubert and Labbé, Solana, Chaufour, Beaume Marty, Société Industrielle d'Entretien et de Service ("SIES"), Kritt, APBP, Immeubles Groupe Kosser, Etcheveste, Bidart
Defendant state France
Articles concerned 6 § 1
Date 19/03/2002

Applicant Entreprises Meton et Etep
Defendant state Greece
Articles concerned 6 § 1
Date 21/03/2002

Applicant Vasilopoulou
Defendant state Greece
Articles concerned 6 § 1, 13 ,14 and 1 of Protocol No. 1
Date 21/03/2002

Applicant Sajtos
Defendant state Greece
Articles concerned 6 § 1
Date 21/03/2002

Applicant A.T.
Defendant state Austria
Articles concerned 6 § 1
Date 21/03/2002

Applicants Rego Chaves Fernandes, Vaz da Silva Girao
Defendant state Portugal
Articles concerned 6 § 1
Date 21/03/2002

Applicant Stašaitis
Defendant state Lithuania
Articles concerned 5 §§ 1, 3 and 4
Date 21/03/2002

Applicants Moullet, Leboeuf, Lutz, Grand, Baillard, Comabat
Defendant state France
Articles concerned 6 § 1
Date 26/03/2002

Applicant Butkevicius
Defendant state Lithuania
Articles concerned 5 §§ 1 and 4 and 6 § 2
Date 26/03/2002

Applicant Haran
Defendant state Turkey
Articles concerned 2, 3, 6 and 14
Date 26/03/2002

Applicants Erat and Saglam
Defendant state Turkey
Articles concerned 3
Date 26/03/2002

Applicant Loffelman
Defendant state the United Kingdom
Articles concerned 8, 14 and 1 of Protocol No. 1
Date 26/03/2002

Applicants Oral and Others
Defendant state Turkey
Articles concerned 2
Date 28/03/2002

Applicant Quartucci
Defendant state Italy
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 28/03/2002

Applicant Xenopoulos
Defendant state Greece
Articles concerned 6 § 1
Date 28/03/2002

Applicants Dudu Çalkan, Mehmet Çelebi, Adile Kartal, Ahmet Öztürk, Mehmet Özen and Aziz Sen (No. 2)
Defendant state Turkey
Articles concerned 1 of Protocol No. 1
Date 28/03/2002

Applicant Klamecki
Defendant state Poland
Articles concerned 5 § 3 and 6 § 1
Date 28/03/2002

Applicant A.S.
Defendant state Turkey
Articles concerned 1 of Protocol No. 1
Date 28/03/2002

Applicant I. S.
Defendant state Turkey
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 28/03/2002

Applicant Ülger
Defendant state Turkey
Articles concerned 5 §§ 1, 2, 3, 4 and 5
Date 28/03/2002

Applicants Birutis and Others
Defendant state Lithuania
Articles concerned 6 §§ 1 and 3 (*d*)
Date 28/03/2002

Applicants Sciarrotta, Diebold, Lattanzi and Cascia, Marrama, Contardi, Mastromauro S.r.l., Albergamo, Antonio Nardone, Leonardi, Prete, Giordano, Amici, Radicchi, Tatangelo, Strangi, Sergio Ferrari, Andreozzi, D'Agostino, Caproni, Cerasomma, Domenico Chiappetta, Mario Fiore Trovato, Manera, Aniceto, Sabetta, Libertini and Di Girolamo, Jaculli, Incollingo, Spatrisano, Tamburrini, Masia, Mignanelli, Carretta, Soave, Manna, Castiello, Quacquarelli, Tortolani, Betti, Rocco Zullo, Picano and Sportola
Defendant state Italy
Articles concerned 6 § 1
Date 28/03/2002

Applicants Yazar, Karatas, Aksoy and the People's Labour Party (HEP)
Defendant state Turkey
Articles concerned 6, 9, 10, 11 and 14
Date 09/04/2002

Applicant T.A.
Defendant state Turkey
Articles concerned 2, 3, 5, 6, 8, 13, 14 and 18

Date 09/04/2002

Applicant Togcu
Defendant state Turkey
Articles concerned 2, 3, 5, 13, 14 and 18
Date 09/04/2002

Applicant Z.Y.
Defendant state Turkey
Articles concerned 3
Date 09/04/2002

Applicant Anghelescu
Defendant state Romania
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 09/04/2002

Applicant Özcan
Defendant state Turkey
Articles concerned 3 and 5 § 3
Date 09/04/2002

Applicant Erdös
Defendant state Hungary
Articles concerned 6 § 1
Date 09/04/2002

Applicant Mangualde Pinto
Defendant state France
Articles concerned 6 § 1
Date 09/04/2002

Applicant Marcel
Defendant state France
Articles concerned 6 § 1
Date 09/04/2002

Applicants Smokovitis and Others
Defendant state Greece
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 11/04/2002

Applicants Sakellaropoulos, AEPI and Angelopoulos
Defendant state Greece
Articles concerned 6 § 1
Date 11/04/2002

Applicant Mercuri
Defendant state Italy
Articles concerned 6
Date 11/04/2002

Applicant Hatzitakis
Defendant state Greece
Articles concerned 1 of Protocol No. 1
Date 11/04/2002

Applicant Lallement
Defendant state France
Articles concerned 1 of Protocol No. 1
Date 11/04/2002

Applicants Ouendeno, Seguin
Defendant state France
Articles concerned 6 § 1
Date 16/04/2002

Applicant Goc
Defendant state Poland
Articles concerned 6 § 1
Date 16/04/2002

Applicants Ouzounis and Others
Defendant state Greece
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 18/04/2002

Applicant Examiliotis
Defendant state Greece
Articles concerned 6 § 1
Date 18/04/2002

Applicant Malama
Defendant state Greece
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 18/04/2002

Applicant Logothetis
Defendant state Greece
Articles concerned 6 § 1
Date 18/04/2002

Applicant Fernandes
Defendant state Portugal
Articles concerned 6 § 1
Date 18/04/2002

Applicants Ferrari, Arrivabene, Fusco, V.L. and Others, Amato Del Re, Strangi, At.M.
Defendant state Italy
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 07/05/2002

Applicant Spentzouris
Defendant state Greece
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 07/05/2002

Applicant Ribes
Defendant state France
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 07/05/2002

Applicants Dede and Others
Defendant state Turkey
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 07/05/2002

Applicant Meulendijks
Defendant state the Netherlands
Articles concerned 6 § 1
Date 14/05/2002

Applicants Gentilhomme, Schaff-Benhadji and Zerouki
Defendant state France
Articles concerned 6 § 1, 8, 14 and 2 of Protocol No. 1
Date 14/05/2002

Applicants Perhirin and 29 Others
Defendant state France
Articles concerned 6 § 1
Date 14/05/2002

Applicant Georgiadis
Defendant state Cyprus
Articles concerned 6 § 1
Date 14/05/2002

Applicant Semse Önen
Defendant state Turkey
Articles concerned 2, 3, 8 and 14 taken in conjunction with Articles 2, 3, 6, 8, and 13
Date 14/05/2002

Applicants Karatas and Sari
Defendant state France
Articles concerned 6 § 1 and 6 § 3 (c)
Date 16/05/2002

Applicant Nuvoli
Defendant state Italy
Articles concerned 6 § 1 and 13
Date 16/05/2002

Applicant Livanos
Defendant state Greece
Articles concerned 6 § 1
Date 16/05/2002

Applicant Goth
Defendant state France
Articles concerned 6 § 1
Date 16/05/2002

Applicants Câmara Pestana; F. Santos, Lda; SIB-Sociedade Imobiliária da Benedita, Lda
Defendant state Portugal
Articles concerned 6 § 1
Date 16/05/2002

Applicants Vasiliu, Hodos and Others, Surpaceanu
Defendant state Romania
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 21/05/2002

Applicant Peltier
Defendant state France
Articles concerned 6 § 1
Date 21/05/2002

Applicant Downie
Defendant state the United Kingdom
Articles concerned 8, 14 and 1 of Protocol No. 1
Date 21/05/2002

Applicants Temur Önel, Haci Özel, Ahmet Önel, Mehmet Önel, Haci Osman Özel
Defendant state Turkey
Articles concerned 1 of Protocol No. 1
Date 23/05/2002

Applicant **Szarapo**
Defendant state Poland
Articles concerned 6 § 1
Date 23/05/2002

Applicant **McShane**
Defendant state the United Kingdom
Articles concerned 2, 6 § 1, 13, 14 and 34
Date 28/05/2002

Applicant **W.F.**
Defendant state Austria
Articles concerned 4 of Protocol No. 7
Date 30/05/2002

Applicant **Landvreugd**
Defendant state the Netherlands
Articles concerned 2 of Protocol No. 4
Date 04/06/2002

Applicant **Yagmurdereli**
Defendant state Turkey
Articles concerned 6 § 1 and 10
Date 04/06/2002

Applicant **William Faulkner**
Defendant state the United Kingdom
Articles concerned 8
Date 04/06/2002

Applicant **Komanický**
Defendant state Slovakia
Articles concerned 6 § 1
Date 04/06/2002

Applicant **Sailer**
Defendant state Austria
Articles concerned 4 of Protocol No. 7
Date 06/06/2002

Applicant **Katsaros**
Defendant state Greece
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 06/06/2002

Applicant **Majstorovic**
Defendant state Croatia
Articles concerned 6 § 1 and 13
Date 06/06/2002

Applicants **S.B., T., Ol.B.**
Defendant state Italy
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 13/06/2002

Applicant **Wierzbicki**
Defendant state Poland
Articles concerned 6 § 1 and 10
Date 18/06/2002

Applicant **Samy**
Defendant state the Netherlands
Articles concerned 5 § 4
Date 18/06/2002

Applicant **Delbec**
Defendant state France
Articles concerned 5 § 4
Date 18/06/2002

Applicant **Orhan**
Defendant state Turkey
Articles concerned 2, 3, 5, 8, 1 of Protocol No. 1, 13 in conjunction with Articles 2, 3, 5 and 8 together with Article 1 of Protocol No. 1, 14, 18 and 34
Date 18/06/2002

Applicant **Ali Erol**
Defendant state Turkey
Articles concerned 6 § 1 and 10
Date 20/06/2002

Applicant **Koskinas**
Defendant state Greece
Articles concerned 6 § 1 and 13
Date 20/06/2002

Applicants **Burhan Bilgin, Leyli Bilgin, Münir Bilgin, Canli, Günal, Ismet Sen, Mahmut Sen, Kemal Sen, Mehmet Tasdemir, Erdogan**
Defendant state Turkey
Articles concerned 1 of Protocol No. 1
Date 20/06/2002

Applicant **Igdeli**
Defendant state Turkey
Articles concerned 5 §§ 3 and 4
Date 20/06/2002

Applicants **Filiz and Kalkan**
Defendant state Turkey
Articles concerned 5 § 3
Date 20/06/2002

Applicant **Siegl**
Defendant state Austria
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 20/06/2002

Applicant **Azinas**
Defendant state Cyprus
Articles concerned 6 § 1 and 1 of Protocol No. 1
Date 20/06/2002

Applicant **Berlinski**
Defendant state Poland
Articles concerned 3 and 6 §§ 1 and 3 (*c*)
Date 20/06/2002

Applicant **H.D.**
Defendant state Poland
Articles concerned 3
Date 20/06/2002

Applicants **Al-Nashif and Others**
Defendant state Bulgaria
Articles concerned 5 § 4, 8, 13 and 9 taken alone and in conjunction with Article 13
Date 20/06/2002

Applicant **Migon**
Defendant state Poland
Articles concerned 5 § 4
Date 25/06/2002

Applicant **Siddik Yasa**
Defendant state Turkey
Articles concerned 2, 3, 5, 6, 8, 13, 14, 18, and 1 of Protocol No. 1
Date 27/06/2002

Applicant **L. R.**
Defendant state France
Articles concerned 5 § 4
Date 27/06/2002

Applicant **Eryk Kawka**
Defendant state Poland
Articles concerned 5 § 3
Date 27/06/2002

Applicants **Pialopoulos and Alexiou**
Defendant state Greece
Articles concerned 6 § 1, 13 and 1 of Protocol No. 1
Date 27/06/2002

Applicant **D. M.**
Defendant state France
Articles concerned 5 § 4
Date 27/06/2002

Applicant **Denoncin**
Defendant state France
Articles concerned 5 § 3
Date 27/06/2002

Applicant **Delic**
Defendant state Croatia
Articles concerned 6 § 1 and 13
Date 27/06/2002

Applicants **Özdiler and Bakan, Özdiler Özkan and Others, Ünlü, Bayram and Others, Bekmezci and Others, Bayram**
Defendant state Turkey
Articles concerned 1 of Protocol No. 1
Date 27/06/2002

Applicants **Karabiyik and Others, Atalag**
Defendant state Turkey
Articles concerned 14 and 1 of Protocol No. 1
Date 27/06/2002

Applicants **Birsel and Others**
Defendant state Turkey
Articles concerned 13 and 1 of Protocol No. 1
Date 27/06/2002

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/.

Resolutions concluding the execution of a judgment or decision

Austria

Tele 1 Privatfernsehgesellschaft MBH v. Austria
Appl. No. 32240/96, Court judgment 21 September 2000
Resolution ResDH (2002) 37, 30 April 2002
Violation of Article 10 as regards the first period; no violation of Article 10 as regards the second period; pecuniary damage – claim rejected; costs and expenses partial award – domestic proceedings; costs and expenses partial award – Convention proceedings

Finland

Nuutinen v. Finland
Appl. No. 32842/96, Court judgment 27 June 2000
Resolution ResDH (2002) 75, 24 June 2002
Violation of Article 6.1; no violation of Article 8; not necessary to examine other complaint under Article 8; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

France

Alcade and Pedrosa v. France
Appl. No. 23132/93, Commission decision 24 December 1995, Interim Resolution DH (97) 511
Resolution ResDH (2002) 38, 30 April 2002
Violation of Article 6.1

Bozza v. France
Appl. No. 36484/97, Commission decision 20 May 1998, Interim Resolution DH (99) 268
Final Resolution ResDH (2002) 63, 24 June 2002
Violation of Article 6.1

In Interim Resolution DH (99) 268 the Committee of Ministers decided that there had been a violation of Article 6, paragraph 1, of the Convention on account of the excessive length of certain criminal proceedings.

Agreeing with the Commission's proposals, the Ministers held that the Government of France was to pay the applicant a certain sum in respect of non-pecuniary damage, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

In this resolution the Committee of Ministers satisfied itself that the sum awarded had been paid, and took note of the following information provided by the French Government.

Appendix to Final Resolution ResDH (2002) 63

Information provided by the Government of France during the examination of the Bozza case by the Committee of Ministers

In order to remedy the problems encountered by the Aix-en-Provence Court of Appeal, the court responsible in this case for violating the right to a hearing within a reasonable time, the French authorities have adopted the following measures:

The number of people working at the Court of Appeal has been regularly increased:

– There are now 101 judges, compared with 88 in 1995;
– A further 8 judges are temporarily attached to the Court;
– The number of officials has risen from 159 in 1995 to 164 in 2000.

These staff increases enabled the Court of Appeal to carry out a reform which led to the establishment of a number of new sections:

– A new social section ("*chambre sociale*"), comprising 4 judges and one assistant to the court, was created in 1999 and in 2000, bringing the total number of social sections at the Court to 5.
– A fourth commercial section, comprising three judges and one assistant to the court, was created in September 1999.

The Government of France considers that these measures will prevent the repetition of new violations similar to those found in this case and that it has therefore fulfilled its obligations under former Article 32 of the Convention.

Chahed v. France
Appl. No. 45976/99, Court judgment 10 April 2001
Resolution ResDH (2002) 50, 30 April 2002
Friendly settlement (alleged violation of Article 6.1)

Charles and Others v. France
Appl. No. 41145/98, Court judgment 10 July 2001
Resolution ResDH (2002) 42, 30 April 2002
Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

Cheema v. France
Appl. No. 33639/96, Commission decision 1 July 1998, Interim Resolution DH (2000) 14
Final Resolution ResDH (2002) 66, 24 June 2002
Violation of Article 8

In Interim Resolution DH (2000) 14 the Committee of Ministers decided that there had been a violation of Article 8 of the Convention on account of a breach of the applicant's right to respect for family life.

Agreeing with the Commission's proposals, the Ministers held that the Government of France was to pay the applicant as just satisfaction a certain sum as just satisfaction, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

In this resolution the Committee of Ministers satisfied itself that the sum awarded had been paid, and took note of the following information provided by the French Government.

Appendix to Final Resolution ResDH (2002) 66

Information provided by the Government of France during the examination of the Cheema case by the Committee of Ministers

On 16 May 2000 the préfecture of Seine-Saint-Denis delivered a residence permit to Mrs Cheema, the applicant's wife, valid from 10 November 1999 to 9 November 2009.

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

Demirtepe v. France
Appl. No. 34821/97, Court judgment 21 December 1999
Resolution ResDH (2002) 39, 30 April 2002
Preliminary objection rejected (non-exhaustion); violation of Article 8; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

The Committee of Ministers took note of the information supplied by the government, indicating that a large extract of the Court's judgment had been published in the *Bulletin d'information de la Cour de Cassation* dated 15 May 2001 and sent out to the authorities directly concerned; it noted also that the government had paid the applicant the sums provided for.

Durrand v. France
Appl. No. 36153/97, Commission decision 20 May 1998, Interim Resolution DH (99) 367
Final Resolution ResDH (2002) 62, 24 June 2002
Violation of Article 6.1

In Interim Resolution DH (2000) 14 the Committee of Ministers decided that there had been a violation of Article 6.1 of the Convention on account of the excessive length of certain criminal proceedings combined with civil action for damage.

Agreeing with the Commission's proposals, the Ministers held that the Government of France was to pay the applicant as just satisfaction a certain sum in respect of non-pecuniary damage, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

In this resolution the Committee of Ministers satisfied itself that the sum awarded had been paid, and took note of the following information provided by the French Government.

Appendix to Final Resolution ResDH (2002) 62

Information provided by the Government of France during the examination of the Durrand case by the Committee of Ministers

The French Government points out that in accordance with Article 175-1 of the Code of Criminal Procedure:

"anyone charged with an offence or the civil party to the proceedings may, after a period of a year commencing, as appropriate, from the date he or she was charged or joined the proceedings, ask the investigating judge either to refer the case to the trial court or declare that there is no case to be heard. Within a month of receiving this request, the investigating judge shall issue an order giving specific reasons for either granting the request or stating the need for further investigation. In the event of the former, the judge shall proceed in accordance with the provisions laid down in Section 1.

"In cases where the investigating judge fails to rule within the deadline stipulated in the previous paragraph, the party concerned may apply directly to the indictments chamber, which has twenty days in which to hand down a decision based on the Attorney-General's reasoned submissions in writing."

The government points out that in a decision dated 15 January 1997, which cites in particular the rights of parties to make sure their case is heard within a reasonable time, the Criminal Division of the Court of Cassation clearly stated that the request referred to in Article 175-1 of the Code of Criminal Procedure could be repeated providing a further period of a year had elapsed since the previous request.

Consequently, the circular of 1 March 1993 on application of Article 175-1 mentioned in paragraph 34 of the Commission's report no longer applies.

The French Government considers, therefore, that all the consequences have been drawn from the Commission's report in this case.

Evrard v. France
Appl. No. 35169/97, Commission decision 1 July 1998, Interim Resolution DH (99) 562
Final Resolution ResDH (2002) 44
Violation of Article 6.1

In Interim Resolution DH (99) 562 the Committee of Ministers decided that there had been a violation of Article 6.1 of the Convention on account of the excessive length of certain criminal proceedings.

Agreeing with the Commission's proposals, the Ministers held that the Government of France was to pay the applicant as just satisfaction certain sums in respect

of non-pecuniary damage and costs and expenses, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

The Committee of Ministers took note of the information supplied by the government, indicating 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, and in particular the expert mentioned in paragraph 48 of the Commission's report, of the requirements of the Convention: copies of the Commission's report had accordingly been sent out to them. It noted also that the government had paid the applicant the sums provided for.

F.D.S. v. France
Appl. No. 33848/96, Commission decision 3 December 1997, Interim Resolution DH (99) 473
Final Resolution ResDH (2002) 61, 24 June 2002
Violation of Article 6.1

Gros v. France
Appl. No. 43743/98, Court judgment 9 November 1999
Resolution ResDH (2002) 65, 24 June 2002
Friendly settlement (alleged violation of Article 6.1)

Ikanga v. France
Appl. No. 32675/96, Court judgment 2 August 2000
Resolution ResDH (2002) 45, 30 April 2002
Violation of Article 6.1; pecuniary damage – claim rejected; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

Iscache v. France
Appl. No. 23050/93, Commission decision 9 April 1997, Interim Resolution DH (98) 382
Final Resolution ResDH (2002) 60, 24 June 2002
Violation of Article 5.4; violation of Article 5.5; violation of Article 8

In Interim Resolution DH (98) 382 the Committee of Ministers decided that there had been a violation of Articles 5.4 and 5.5 and of Article 8 of the Convention, on account of the absence of a prompt judgment regarding the lawfulness of the applicant's detention on remand, the absence of a right to compensation in this respect and a breach of his right to respect for his private life and correspondence.

Agreeing with the Commission's proposals, the Ministers held that the Government of France was to pay the applicant as just satisfaction a certain sum in respect of all damages taken together, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

In this resolution the Committee of Ministers satisfied itself that the sum awarded had been paid, and took note of the following information provided by the French Government.

Appendix to Final Resolution ResDH (2002) 60

Information provided by the Government of France during the examination of the Iscache case by the Committee of Ministers

The French Government states that there is no specific remedy in domestic law for compensating someone who, as in the Iscache case, was unable to secure, under Article 5, paragraph 4, a prompt decision on the lawfulness of his detention.

Under Article L 781-1 of the Code of Judicial Organisation however, the party concerned is entitled to compensation for any damage arising from a malfunctioning of the system of justice.

Apart from length-of-proceedings cases, the following have been found to fall within the scope of this article: detention on remand not intrinsically justified (decision of the Paris Court of Appeal of 14 June 1996), failure, attributable to the prosecutor's office, to relocate proceedings (decision of the Paris Court of Appeal of 21 May 1991), or failure by the registry of the Criminal Court to issue an execution copy of a judgment (decision of the tribunal de grande instance of Thonon-les-Bains of 3 November 1994).

In view of the direct effect accorded the Convention and the case-law of the European Court of Human Rights by the French courts (see in particular Cass. Sociale 14 January 1999 Bozkurt, Cass. criminelle 16 January 2001 judgment No. 7688, Cass. criminelle 16 May 2001 judgment No. 3659) the failure, by the registry of an Indictments Chamber, to send a notice of appeal to the Court of Cassation, thereby depriving the applicant of a review of the lawfulness of his detention, as was the case with Mr Iscache, would most certainly be considered by the domestic courts as gross negligence incurring the liability of the State under Article L 781-1 of the Code of Judicial Organisation.

The Government of France considers that there is no risk of further violations similar to those found in this case and that it has, therefore, fulfilled its obligations under former Article 32 of the Convention.

Kadri v. France
Appl. No. 41715/98, Court judgment 27 March 2001
Resolution ResDH (2002) 76, 24 June 2002
Violation of Article 6.1; pecuniary damage – claim rejected; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

Lagrange v. France
Appl. No. 39485/98, Court judgment 10 October 2000
Resolution ResDH (2002) 72, 24 June 2002
Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Lechaczynski J. and D. v. France
Appl. No. 39485/98, Commission decision 22 October 1997, Interim Resolution DH (99) 563
Final Resolution ResDH (2002) 64, 24 June 2002
Violation of Article 6.1

Malve v. France
Appl. No. 46051/99, Court judgment 31 July 2001
Resolution ResDH (2002) 47, 30 April 2002
Violation of Article 6.1; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

P.V. v. France
Appl. No. 38305/97, Court judgment 14 November 2000
Resolution ResDH (2002) 43, 30 April 2002
Violation of Article 6.1; pecuniary damage – claim rejected; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

Pelat v. France
Appl. No. 32912/96, Commission decision 3 December 1997, Interim Resolution DH (99) 270
Final Resolution ResDH (2002) 46, 30 April 2002
Violation of Article 6.1

In Interim Resolution DH (99) 270 the Committee of Ministers decided that there had been a violation of Article 6.1 of the Convention on account of the excessive length of certain criminal proceedings combined with civil action.

Agreeing with the Commission's proposals, the Ministers held that the Government of France was to pay the applicant as just satisfaction a certain sum in respect of non-pecuniary damage, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

The Committee of Ministers took note of the information supplied by the government, indicating that the Commission's report as well as the Committee of Ministers' decisions had been sent out to the authorities directly concerned. It noted also that the government had paid the applicant the sums provided for.

Romo v. France
Appl. No. 40402/98, Court judgment 3 July 2001
Resolution ResDH (2002) 48, 30 April 2002
Violation of Article 6.1; pecuniary damage – claim rejected; non-pecuniary damage – financial award

Greece

Sakellaropoulos v. Greece

Appl. No. 23436/94, Commission decision 6 September 1995

Resolution ResDH (2002) 49, 30 April 2002

Violation of Article 6.1

Iceland

Sigfirðingur EHF v. Iceland

Appl. No. 34142/96, Court judgment 30 May 2000

Resolution ResDH (2002) 67, 24 June 2002

Friendly settlement (alleged violation of Article 2.1 of Protocol No. 7)

The Committee of Ministers satisfied itself that the Icelandic Government had paid the applicant company the sums provided for in the friendly settlement, and took note of the following information supplied by the government.

Appendix to Resolution ResDH (2002) 67

Information provided by the Government of Iceland during the examination of the Sigfirðingur EHF case by the Committee of Ministers

The Icelandic authorities informed the Committee of Ministers that on 21 April 2001 the Althing adopted the Act amending the Trade Unions and Industrial Disputes Act No. 80/1938 allowing, under the circumstances covered by Section 67 of the Act, that the Labour Court's decrees and judgments could be reviewed by the Supreme Court.

Under Section 67 of the above-mentioned Act, as amended, "the Labour Court's decrees and judgments are final and will not be appealed. Within a week of the pronouncement of judgment or decree the following may, however, be referred to the Supreme Court:

1. A judgment or ruling of dismissal.
2. A judgment of invalidation on the grounds that the case does not fall within the jurisdiction of the Labour Court.
3. An order on the duty to witness, the swearing of oaths and fines for breaches of court procedure under Articles 60 and 63.
4. A decision on the imposition of fines on parties under Article 65."

In addition, the judgment of the European Court of Human Rights has been disseminated to all authorities concerned.

The Government of Iceland therefore considers that there is no risk of new situation similar to that found in the present case and that Iceland has consequently complied with its obligations under Article 46, paragraph 2, of the Convention.

Italy

B.S. v. Italy

Appl. No. 44364/98, Court judgment 8 March 2001

Resolution ResDH (2002) 52, 30 April 2002

Friendly settlement (alleged violation of Article 6.1)

Brunno v. Italy

Appl. No. 43053/98, Court judgment 28 September 2000

Resolution ResDH (2002) 51, 30 April 2002

Friendly settlement (alleged violation of Article 6.1)

Fanelli v. Italy

Appl. No. 44361/98, Court judgment 8 March 2001

Resolution ResDH (2002) 53, 30 April 2002

Friendly settlement (alleged violation of Article 6.1)

M.P. and Others v. Italy

Appl. No. 32664/96, Court judgment 19 April 2001

Resolution ResDH (2002) 54, 30 April 2002

Friendly settlement (alleged violation of Article 1 of Protocol No. 1 and Article 6.1 of the Convention)

Milazzotto v. Italy

Appl. No. 35345/97, Court judgment 27 February 2001

Resolution ResDH (2002) 84, 24 June 2002

Friendly settlement (alleged violation of Article 6.1)

Musmeci v. Italy

Appl. No. 44355/98, Court judgment 17 October 2000

Resolution ResDH (2002) 55, 30 April 2002

Friendly settlement (alleged violation of Article 6.1)

Polizzi v. Italy

Appl. No. 45073/98, Court judgment 12 October 2000

Resolution ResDH (2002) 83, 24 June 2002

Friendly settlement (alleged violation of Article 6.1)

Netherlands

Menckeberg v. the Netherlands

Appl. No. 25514/94, Commission decision 17 January 1996, Interim Resolution DH (97) 358

Final Resolution ResDH (2002) 68, 24 June 2002

Violations of Article 6 .1 and 6.3.c

In Interim Resolution DH (97) 358 the Committee of Ministers decided that there had been a violation of Articles 6.1 and 6.3.c on account of the unfairness of certain criminal proceedings.

Agreeing with the Commission's proposals, the Ministers held that that no just satisfaction was to be awarded to the applicant since the latter had not submitted any claim in this respect, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

In this resolution the Committee of Ministers took note of the following information provided by the French Government.

Appendix to Final Resolution ResDH (2002) 68

Information provided by the Government of the Netherlands during the examination of the Menckeberg case by the Committee of Ministers

In this case, the applicant did not receive the summons to attend the hearing before the Court of Appeal because, in conformity with the law applicable at that time, they were served at his official address while he was detained in connection with other criminal offences.

The introduction, since the end of 1998, of a computerised database now enables public prosecutors to ensure that judicial documents, including summonses, are also effectively served to the concerned person when this person is detained.

As regards the possibility for the lawyer to plead, even in the absence of the accused, the Government recalls that the case-law of the courts had already changed in 1995, the European Court's judgments in the Lala and Pelladoah cases (see Resolutions DH (95) 240 and DH (99) 241) having a direct effect in Dutch legal order.

Subsequently, the new practice of the Courts was codified by the amendment of the Code of Criminal Procedure (Act of 15 January 1998 – *Bulletin of Acts and Decrees* No. 33) which entered into force on 1 February 1998. The present Article 279, paragraph 1, of the Code of Criminal Procedure provides that a defendant who is absent from the trial may be defended by a lawyer, provided that the lawyer has been duly authorised by his client to do so. A defendant who is absent and has authorised his lawyer to conduct his defence will not be declared in default of appearance (paragraph 2).

The Government considers that these measures prevent the risk of new violations similar to that found in this case and that the Netherlands have thus fulfilled their obligations under former Article 32 in this case.

Norway

Bergens Tidende and Others v. Norway

Appl. No. 26132/95, Court judgment 2 May 2000

Resolution ResDH (2002) 69, 24 June 2002

Violation of Article 10; pecuniary damage – financial award; costs and expenses award – domestic proceedings

In its judgment the Court held that there had been a violation of Article 10 of the Convention and that the Norwegian Government was to pay certain sums in respect of pecuniary damage and costs and expenses.

The Committee of Ministers satisfied itself that the Norwegian Government had paid the applicant company the sums provided for in the friendly settlement, and took note of the following information supplied by the government.

Appendix to Resolution ResDH (2002) 69

Information provided by the Government of Norway during the examination of the Bergens Tidende and Others case by the Committee of Ministers

In response to the three recent cases concerning freedom of expression in Norway (Blådet Tromsø A/S and Pål Stensås, judgment of 20 May 1999; Nilsen and Johnsen, judgment of 25 November 1999 and Bergens Tidende, judgment of 2 May 2000), the Norwegian Government wishes to submit the following information to the Committee of Ministers.

As regards the consequences for the applicants' civil liability for defamation which was found by the European Court of Human Rights to be contrary to Article 10 of the Convention, the sums paid by the applicants as a sanction have been fully reimbursed through the payment of the just satisfaction awarded. The judgments have not given rise to any mention in the judicial records of the applicants. In this connection, it should be recalled that Norwegian law allows for the reopening of proceedings following a judgment of the European Court both in criminal and civil cases. Thus, should the applicants still suffer from any adverse consequence of the violations found by the Court, they can obtain a full remedy through domestic means.

As regards the measures taken to prevent new violations from occurring, it should be noted that according to the Human Rights Act of 21 May 1999 (No. 30), the European Convention on Human Rights, as interpreted by the European Court, enjoys direct effect in Norwegian law. This Act also covers the Convention's Protocols Nos. 1, 4, 6 and 7, as well as the United Nations' Covenant on Civil and Political Rights (and its protocols) and the Covenant on Economic, Social and Cultural Rights. The provisions of these instruments prevail over national statutory law in the event of conflict.

In particular, as regards the execution of the present cases, the Norwegian Supreme Court adapted, in a judgment of 25 February 2000 (Straffesak snr. 8/1997, Inr. 12B/2000), its interpretation of the offence of defamation to the requirements of Article 10 of the Convention, as interpreted by the European Court in the cases Blådet Tromsø A/S and Pål Stensås and Nilsen and Johnsen. Furthermore, immediately after the judgment of the European Court in the Bergens Tidende case, on 2 May 2000, the President of the Supreme Court indicated in a press release that the Supreme Court would adapt its case law to the principles emerging from the Strasbourg Court's judgments.

In order to facilitate the direct application by the Norwegian courts of the principles enounced by European Court in these cases, summaries and comments of the judgments have also been published in Norwegian in legal magazines, among which *Kritisk Juss* (No. 2000 (27) 3, p. 223-260), *Mennesker og rettigher* (No. 3/2000, p. 278-279), *Rett & Slett* (No. 2/2000, p. 22-23), *Ju & Nytt* (No. 5/2000, p. 1-2), while the attention of the judges has been drawn to the fact that the full text of the judgments, in English, was available on the Strasbourg Court's website (http://www.echr.coe.int/), which is also directly accessible from the Norwegian official site http://www.domstol.no/, presenting the Norwegian court system.

The Government considers that, taking into account the language skills of Norwegian judges and the generalised availability of Internet connections in Norwegian courts, the above measures are sufficient to prevent new violations of the same kind as that found in the judgments of Blådet Tromsø A/S and Pål Stensås of 20 May 1999; Nilsen and Johnsen of 25 November 1999 and Bergens Tidende of 2 May 2000 and that Norway has, accordingly, complied with its obligations under Article 46, paragraph 1, of the Convention in this respect.

In addition, the Government wishes to point out that in September 1999, a Governmental Commission, appointed by Royal Decree of 23 August 1996, delivered a proposal for a revised Article 100 of the Norwegian Constitution, with a view to strengthening the protection of the right to freedom of expression. The Commission proposed *inter alia*, the following amendment: "no person may be held liable in law for the reason that a statement is untrue if it was uttered in non-negligent good faith". In September 2000, the Norwegian Government presented a White Paper to the Storting, presenting alternative proposals for amendments of the Constitution. All the proposals were submitted to the Storting, before the last elections, so that a decision now may be taken (cf. Article 112 of the Constitution). In order to facilitate this decision, the Government will present a new White Paper to the Storting in 2003.

The Commission also proposed that the sections concerning defamation in the General Penal Code should be revised, *inter alia* that the distinction between statements regarding facts and statements containing value judgments should be made clear in the legislation. A revision of these sections has also been proposed by another Governmental Commission, which has recently delivered a proposal for a total revision of the General Penal Code. All these proposals will be considered at a later stage.

Blådet Tromsø A/S and Pål Stensås v. Norway
Appl. No. 21980/93, Court judgment 20 May 1999
Resolution ResDH (2002) 70, 24 June 2002
Violation of Article 10; pecuniary damage – financial award; costs and expenses award – domestic proceedings; costs and expenses award – Convention proceedings
Violation comparable to that found in the Bergens Tidende and Others case, and requiring the same measures. See appendix to Resolution ResDH (2002) 68, above.

Nilsen and Johnsen v. Norway
Appl. No. 23118/93, Court judgment 25 November 1999
Resolution ResDH (2002) 71, 24 June 2002
Violation of Article 10; non-pecuniary damage – finding of violation sufficient; pecuniary damage – financial award; costs and expenses partial award – domestic proceedings; costs and expenses award – Convention proceedings
Violation comparable to that found in the Bergens Tidende and Others case, and requiring the same measures. See appendix to Resolution ResDH (2002) 68, above.

Portugal

Branquinho Luís v. Portugal
Appl. No. 45348/99, Court judgment 4 October 2001
Resolution ResDH (2002) 56, 30 April 2002
Friendly settlement (alleged violation of Article 6.1)

C.P.M. and M.O.R.M. v. Portugal
Appl. No. 34117/96, Commission decision 16 April 1998, Interim Resolution DH (99) 432
Final Resolution ResDH (2002) 80, 24 June 2002
Violation of Article 6.1
In Interim Resolution DH (99) 432 the Committee of Ministers decided that there had been a violation of Article 6.1 of the Convention on account of the excessive length of certain criminal proceedings.

Agreeing with the Commission's proposals, the Ministers held that the Government of Portugal was to pay the applicant as just satisfaction certain sums in respect of non-pecuniary damage and costs and expenses, and invited the government to inform it of the measures taken to avoid new violations of the same kind as that found in this case.

The Committee of Ministers took note of the information supplied by the government, indicating that the Commission's report had been sent out to the authorities directly concerned and that the question of the length of judicial proceedings was being examined in order to verify that such proceedings can be concluded within a reasonable time; also that, as regards the applicants' individual situation, the government reached a friendly settlement on 19 April 1999 putting and end to the proceedings. It noted also that the government

had paid the applicant the sums provided for.

Costa v. Portugal

Appl. No. 44135/98, Court judgment 4 October 2001

Resolution ResDH (2002) 57, 30 April 2002

Friendly settlement (alleged violation of Article 6.1)

Fernandes Cascão v. Portugal

Appl. No. 37845/97, Court judgment 1 February 2001

Resolution ResDH (2002) 77, 24 June 2002

Violation of Article 6.1

Minnema v. Portugal

Appl. No. 39300/98, Court judgment 8 March 2001

Resolution ResDH (2002) 79, 24 June 2002

Violation of Article 6.1; pecuniary damage – claim rejected; non pecuniary damage – financial award; costs and expenses partial award

Pinto de Oliveira v. Portugal

Appl. No. 39297/98, Court judgment 8 March 2001

Resolution ResDH (2002) 78, 24 June 2002

Violation of Article 6.1; pecuniary damage – claim rejected; non pecuniary damage – financial award; costs and expenses partial award

S.A. v. Portugal

Appl. No. 36421/97, Court judgment 27 July 2000

Resolution ResDH (2002) 82 ,24 June 2002

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

In its judgment the Court held that there had been a violation of Article 6.1, and that the government of Portugal was to pay the applicant a certain sum in respect of non-pecuniary damage

The Committee of Ministers took note of the information supplied by the government, indicating that the Court's judgment had been sent out to the authorities directly concerned and that the question of the length of judicial proceedings was being examined in order to verify that such proceedings can be concluded within a reasonable time; it noted also that the government had paid the applicant the sums provided for.

Silva Gomes and Others v. Portugal

Appl. No. 29251/95, Commission decision 15 May 1996, Interim Resolution DH (98) 279

Final Resolution ResDH (2002) 81, 24 June 2002

Violation of Article 6.1

Turkey

22 cases against Turkey

relating to the administration's delay in payment of compensation for expropriation and the applicable rate of default interest

Court judgments 10 April 2001

Resolution ResDH (2002) 40, 30 April 2002

Violation of Article 1 of Protocol No. 1

The Committee of Ministers […]

Having regard to the judgments of the European Court of Human Rights in the 22 cases listed in the Appendix to this Resolution, which were delivered on 10 April 2001 and transmitted to the Committee of Ministers once they had become final under Articles 44 and 46 of the Convention;

Recalling that these cases originated in applications (see Appendix) against Turkey, lodged with the European Commission of Human Rights on 26 August 1991 under former Article 25 of the Convention by 39 Turkish nationals, and that the Court, seized of the cases under Article 5, paragraph 2, of Protocol No. 11, declared admissible the complaints that there had been a breach of the applicants' right to the peaceful enjoyment of their possessions due to the administration's delay in paying additional compensation awarded by domestic courts for expropriation of the applicants' property and to the substantial difference between the default interest rate applicable at the time and the average rate of inflation in Turkey;

Whereas in its judgments of 10 April 2001 concerning these cases the Court, unanimously:

– held that there had been a violation of Article 1 of Protocol 1 to the Convention;
– held that the government of the respondent state was to pay the applicants, within three months from the date at which the judgment became final, the amounts of just satisfaction indicated in the appendix, and that simple interest at an annual rate of 6% would be payable on these sums from the expiry of the above-mentioned three months until settlement;

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

Having invited the government of the respondent state to inform it of the measures which had been taken in consequence of the judgments of 10 April 2001, having regard to Turkey's obligation under Article 46, paragraph 1, of the Convention to abide by them;

Whereas during the examination of the cases by the Committee of Ministers, the government of the respondent state recalled that measures had already been taken to avoid new, similar violations (see Resolutions ResDH (2001) 70 and ResDH (2001) 71 in the Aka and Akkus against Turkey cases respectively), notably through the entry into force on 1 January 2000 of Law No. 4489, which brought the statutory rate of default interest into line with the annual rediscount rate applied by the Turkish Central Bank to short-term debts (the latter rate is fixed and permanently reviewed, in relation particularly to the country's inflation rate), and indicated that the Court's judgments had been sent out to the authorities directly concerned;

Having satisfied itself that on 10 July 2001, within the time-limit set, the government of the respondent state had paid the applicants the sums provided for in the judgments of 10 April 2001,

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

Appendix to Resolution ResDH (2002) 40

Details of the 22 cases and the just satisfaction awarded to the applicants

[Appendix not reproduced in this *Bulletin*]

Yusuf Çelebi (No. 2) case and 33 other cases against Turkey

relating to the administration's delay in payment of additional compensation for expropriation and the applicable rate of default interest

Court judgments 18 September 2001

Resolution ResDH (2002) 73, 24 June 2002

Violation of Article 1 of Protocol No. 1

The Committee of Ministers […]

Having regard to the judgments of the European Court of Human Rights in the 34 cases details of which appear in the Appendix to this resolution, which were delivered on 18 September 2001 and transmitted to the Committee of Ministers once they had become final under Articles 44 and 46 of the Convention;

Recalling that these cases originated in applications against Turkey, lodged with the European Commission of Human Rights on 15 August 1991 or 4 May 1992 under former Article 25 of the Convention by 34 Turkish nationals, and that the Court, seized of the cases under Article 5, paragraph 2, of Protocol No. 11, declared admissible the complaints that there had been a breach of the applicants' right to the peaceful enjoyment of their possessions due to the administration's delay in paying additional compensation awarded by the domestic courts for the expropriation of the applicants' properties and due to the substantial difference between the default interest rate applicable at the time and the average rate of inflation in Turkey;

Whereas in its judgments of 18 September 2001 concerning these cases the Court, unanimously:

– held that there had been a violation of Article 1 of Protocol No.1 to the Convention;
– held that it was not necessary to examine the applicants' complaints under Article 6, paragraph 1, of the Convention;
– held that the government of the respondent state was to pay the applicants, within three months from the date at which the judgment became final, the amounts of just satisfaction awarded in American dollars to be converted into Turkish liras at the rate applicable at the date of settlement (see table appended to the resolution), and that simple interest at an annual rate of 6 % would be payable on these sums from the expiry of the above-mentioned three months until settlement;

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

Having invited the government of the respondent state to inform it of the measures which had been taken in consequence of the judgments of 18 September 2001, having regard to Turkey's obligation under Article 46, paragraph 1, of the Convention to abide by them;

Whereas during the examination of the cases by the Committee of Ministers, the government of the respondent state recalled that measures had already been taken to avoid new, similar violations (see Resolutions ResDH(2001)70 and ResDH(2001)71 in the cases Aka and Akkus against Turkey respectively), notably through the entry into force on 1 January 2000 of Law No. 4489, which brought the statutory rate of default interest into line with the annual rediscount rate applied by the Turkish Central Bank to short-term debts (the latter rate is fixed and permanently reviewed, taking into account particularly the country's inflation rate), and indicated that the Court's judgments had been sent out to the authorities directly concerned;

Having satisfied itself that on 27 March 2002, after expiry of the time-limit set, the government of the respondent state had paid the applicants the sums provided for in the judgments of 18 September 2001 and the default interest due,

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

Appendix to Resolution ResDH (2002) 73

Details of the 34 cases and the just satisfaction awarded to the applicants

[Appendix not reproduced in this *Bulletin*]

United Kingdom

Caballero v. the United Kingdom

Appl. No. 32819/96, Court judgment 8 February 2000

Resolution ResDH (2002) 41, 30 April 2002

Violation of Article 5.3; violation of Article 5.5; non-pecuniary damage – financial award; costs and expenses partial award – Convention procedure

In its judgment the Court:

– accepted the government's concession that there had been a violation of Article 5, paragraphs 3 and 5, of the Convention;
– held that it was not necessary to consider whether there had been a violation of Article 13 of the Convention;
– held that it was not necessary to consider whether there had been a violation of Article 14 of the Convention taken in conjunction with Article 5, paragraph 3;
– held that the government of the respondent state was to pay the applicant, within three months, 1,000 pounds sterling in respect of non-pecuniary damage; 15,250 pounds sterling in respect of costs and expenses inclusive of value-added tax, less the amount received in legal aid from the Council of Europe and that simple interest at an annual rate of 7.5% would be payable on those sums from the expiry of the above-mentioned three months until settlement;
– dismissed the remainder of the applicant's claim for just satisfaction;

The Committee of Ministers took note of the information supplied by the government, indicating that measures had already been taken to avoid new violations of the same kind as that found in this case, most importantly through the legislative amendment of Section 25 of the Criminal Justice and Public Order Act 1994, by Section 56 of the Crime and Disorder Act 1998 which entered into force on 30 September 1998; and that the Court's judgment had been sent out to the authorities directly concerned. The Committee noted also that the government had paid the applicant the sums provided for.

Donnelly v. the United Kingdom

Appl. No. 29374/95, Commission decision 16 April 1998, Interim Resolution DH (99) 359

Final Resolution ResDH (2002) 74, 24 June 2002

Violation of Article 6.1

Johnson v. the United Kingdom

Appl. No. 28455/95, Commission decision 2 July 1997, Interim Resolution DH (99) 261

Final Resolution ResDH (2002) 31, 30 April 2002

Violation of Articles 5.1, 5.5.f, 6.1 and 6.3.c

Lustig-Prean and Beckett v. the United Kingdom

Appl. Nos. 31417/96 and 32377/96, Court judgments 27 September 1999 and 25 July 2000

Resolution ResDH (2002) 34, 30 April 2002

Violation of Article 8; no separate issue under Article 14 taken together with 8; non-pecuniary damage – financial award; pecuniary damage – financial award; costs and expenses partial award – domestic proceedings; costs and expenses partial award – Convention proceedings

In its judgment the Court held that there had been a violation of Article 8 of the Convention and that the Government of the United Kingdom was to pay the applicants certain sums for pecuniary damage, for non-pecuniary damage and for costs and expenses.

The Committee of Ministers satisfied itself that the United Kingdom Government had paid the applicants the sums provided for in the friendly settlement, and took note of the following information supplied by the government.

Appendix to Resolution ResDH (2002) 34

Information provided by the Government of the United Kingdom during the examination of the Lustig-Prean and Beckett case by the Committee of Ministers

On 12 January 2000, and in response to the Court's judgments on the merits in the Lustig-Prean and Beckett and the Smith and Grady cases, the Government of the United Kingdom introduced *The Armed Forces Code of Social Conduct Policy Statement* lifting the ban on gays serving in the military.

The Code is intended to explain the Armed Forces' revised policy on personal relationships involving Service personnel and applies to all members of the Armed Forces, regardless of their gender, sexual orientation, rank or status, and provide a clear framework within which people in the services can live and work. Furthermore, it complements existing policies, such as zero tolerance towards harassment, discrimination and bullying.

Under paragraph 5 of the Policy Statement, when considering possible cases of social misconduct, and in determining whether the Service has a duty to intervene in the personal lives of its personnel, Commanding Officers at every level must con-

sider each case against a Service Test based on whether the actions or behaviour of an individual has adversely impacted or is likely to impact on the efficiency or operational effectiveness of the Service and not on the sexual orientation of the personnel.

Furthermore, Guidance Notes for Commanding officers have been issued in order to explain the Code of Conduct and to give officers detailed guidance on how it should be implemented.

Finally, the judgment has received extensive press coverage, both at national and international level (such as *The Times*, *The Guardian*, *The Independent*, *The Daily Mail*, *The Daily Telegraph*, *Le Monde*, *La Repubblica*, *Il Corriere della Sera*, *La Stampa*, *La Croix*, *Figaro*, *Libération*, *Frankfurter Allgemeine Zeitung*, *El País*, *El Mundo*, etc.).

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 it has therefore fulfilled its obligations under Article 46, paragraph 1, of the Convention.

Poole v. the United Kingdom

Appl. No. 28190/95, Commission decision 2 July 1997, Interim Resolution DH (99) 262

Final Resolution ResDH (2002) 32, 30 April 2002

Violation of Article 5.1; violation of Article 5.5; violation of Article 6.1; violation of Article 6.3.c

S.D. v. the United Kingdom

Appl. No. 25286/94, Commission decision 2 July 1997, Interim Resolution DH (99) 263

Final Resolution ResDH (2002) 33, 30 April 2002

Violation of Article 5.1; violation of Article 5.5; violation of Article 6.1; violation of Article 6.3.c

Sander v. the United Kingdom

Appl. No. 34129/96, Court judgment 9 May 2000

Resolution ResDH (2002) 36, 30 April 2002

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

In its judgment the Court held that there had been a violation of Article 6.1.

The Committee of Ministers took note of the following information supplied by the government.

Appendix to Resolution ResDH (2002) 36

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

The Government of the United Kingdom has informed the Committee of Ministers that as from the year 2001 a video *Guidance to juries* has been made available in jury rooms in courts to avoid the repetition of violations similar to that found in the present case.

Further, the judgment of the European Court of Human Rights has been published in the *Criminal Law Review* (2000/Crim LR 767).

Finally, it drew the Committee's attention to the fact that the applicant, if he so wishes, may ask for the Review Commission to examine the possibility of quashing the domestic judgment.

The Government of the United Kingdom considers that the measures taken will prevent the repetition of any new violations similar to that found in this case and that it has therefore fulfilled its obligations under Article 46, paragraph 1, of the Convention.

Smith and Grady v. the United Kingdom

Appl. Nos. 33985/96 and 33986/96, Court judgments 27 September 1999 and 25 July 2000

Resolution ResDH (2002) 35, 30 April 2002

Violation of Article 8; no separate issue under Article 14 taken together with 8; no violation of Article 3 or Article 14 taken together with 3; violation of Article 13; non-pecuniary damage – financial award; pecuniary damage – financial award; costs and expenses partial award – domestic proceedings; costs and expenses partial award – Convention proceedings

Violation comparable to that found in the case of Lustig-Prean and Beckett, and requiring the same measures. See appendix to Resolution ResDH (2002) 34, above.

Interim Resolutions concerning the execution of judgments

Italy

P.G. II v. Italy

Appl. No. 22716/93, Interim Resolution DH (97) 18

Interim Resolution ResDH (2002) 58

Violation of Article 8

The Committee of Ministers […]

Regretting that, since the finding of a violation in this case in January 1997, no measure has been taken yet in order to make the present bankruptcy law more flexible and thus allow for exceptions, subject to judicial supervision, in special cases like the one here at issue;

Noting however that, in January 2002, the Legislative Office of the Italian Ministry of Justice transmitted the decision in the P.G. II case to the President of a Commission responsible for drafting new bankruptcy legislation, pointing out the necessity of incorporating, in the draft, provisions that will allow Italy to comply with the obligations resulting from the Committee of Ministers' decision in this case;

Invites the Italian authorities to adopt without further delay the necessary measures in order to prevent new violations similar to that found in this case,

Decides to resume consideration of this case, as far as general measures are concerned, once the new legislation has been adopted or, at the latest, at its first meeting in 2003.

Turkey

Sadak, Zana, Dicle and Dogan v. Turkey

Appl. Nos. 29900/96 and others, Court judgment 17 July 2001

Interim Resolution ResDH (2002) 59, 30 April 2002

Violation of Article 6.1 concerning independence and impartiality; violation of Article 6.3.a; violation of Article 6.3.b; violation of Article 6.3.d; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

The Committee of Ministers …

Recalling that the applicants were convicted in 1994 to a 15-year prison term as result of these proceedings;

[…]

Recalling that the Turkish authorities have already taken certain general measures in order to prevent new similar violations, notably by abolishing the military judge on the state security courts (see Resolution DH (1999) 555 in the case of Ciraklar against Turkey) and, recently, by ensuring constitutional protection for the right to fair trial (see the amendment to Article 36 of 17 October 2001);

Noting that further general measures are being taken in order to give full effect to the judgment of the Court;

Considering, however, that, in the present case, the adoption of individual measures, in addition to the payment of the just satisfaction, is also necessary in view of the extent of the violations found and the fact that the applicants continue to serve the heavy prison sentences imposed (cf. the Committee's Recommendation DH (2000) 2);

Noting the engagement of the Government of Turkey to take all measures required in order to ensure the reopening of judicial proceedings when this is necessary in order to abide by the judgments of the Court;

Strongly urges the Turkish authorities, without further delay, to respond to the Committee's repeated demands that the said authorities urgently remedy the applicants' situation and take the necessary measures in order to reopen the proceedings impugned by the Court in this case, or other *ad hoc* measures erasing the consequences for the applicants of the violations found;

Decides, in view of the urgency of the situation, to resume its control of the adoption of these individual measures, if necessary at each of its meetings.

United Kingdom

Quinn, Murray Kevin, Magee, Murray John and Averill v. the United Kingdom

Court judgments 8 February 1996 and 6 June 2000, Interim Resolutions DH (1998) 156, DH (1998) 214 and DH (2000) 26

Interim Resolution ResDH (2002) 85, 11 June 2002

Violations of Article 6.3.c alone or combined with Article 6.1

The Committee of Ministers […]

Having regularly invited the Government of the United Kingdom in 2000, 2001 and 2002, to inform it of any progress in the adoption of the measures envisaged by the United Kingdom authorities, as summarised in Interim Resolution DH (2000) 26;

Regretting that, more than two years after the adoption of Interim Resolution DH (2000) 26, the amendments to the Youth Justice and Criminal Evidence Act 1999, in particular the new Section 58, and the Criminal Evidence (Northern Ireland) Order 1999 have still not entered into force;

Strongly encourages the United Kingdom authorities to take all the necessary measures to ensure the rapid entering into force of the amendments to the Youth Justice and Criminal Evidence Act 1999 and the Criminal Evidence (Northern Ireland) Order 1999, so as to effectively prevent new violations of the Convention similar to those found in these cases;

Decides to resume consideration of the matter once the legislation in question has entered into force or, at the latest, at its 819th meeting (December 2002).

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.

Steering Committee on Human Rights (CDDH)

Ten days after the terrorist attacks of 11 September 2001, the Committee of Ministers of the Council of Europe instructed the CDDH to prepare guidelines on human rights and the fight against terrorism. Based on principles of human rights protection, these guidelines should guide the efforts of the member states in the fight against terrorism, with due respect for democracy and the rule of law. A group of specialists (DH-S-TER), set up by the CDDH, began this intergovernmental work shortly afterwards. During the course of its work, it notably held consultations with representatives of national authorities responsible for the fight against terrorism, to ensure that the essential elements of this fight were fully taken into account during the preparation of the text. On completion of this work, the draft guidelines were adopted by the CDDH at its 53rd meeting (25-28 June 2002) and transmitted to the Ministers' Deputies. The latter adopted them on 11 July 2002, during their 804th meeting. They considered it to be of the utmost importance that these guidelines be disseminated on a large scale to all authorities responsible for the fight against terrorism in the member and observer states of the Council of Europe.

The text of the guidelines, together with the reference texts (case law of the Court, international instruments, etc.) which were used for their preparation, will be issued shortly.

At the same meeting, the CDDH adopted an activity report on technical and legal issues of a possible European Communities/European Union accession to the European Convention on Human Rights. It transmitted the report to the the Ministers' Deputies, who took note on 11 July 2002 (804th meeting). The CDDH report was brought to the attention of the members of the relevant working group of the Convention on the future of Europe.

The CDDH also examined the on-going work within its various bodies, on the follow-up to the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000)[1]. In particular, it considered the work being conducted within the CDDH-GDR and the DH-PR (see hereafter) on the reinforcement of the human rights protection mechanism set up by the Convention. The results of this work will be reflected in an interim activity report which will be adopted by the CDDH at its 54th meeting (1-4 October 2002), for transmission to the Committee of Ministers. Then the CDDH will draft a final report, to be adopted at its 55th meeting (17-20 June 2003).

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.

1 The proceedings of the Ministerial Conference (adopted texts, speeches, etc.) were issued in June 2002. This work, available in both English and French versions, can be ordered from the Publications Service of the Council of Europe.

The Steering Committee also undertook the preparation of an opinion on Recommendation 1504 (2001) of the Parliamentary Assembly "Non-expulsion of long-term immigrants". This opinion will be finalised at tthe 54th meeting (1-4 October 2002).

Finally, the CDDH held fruitful exchanges of views with Mr Alvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe and with Mrs Renate Wohlwend, Chairperson of the Sub-Committee on Human Rights of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly.

Subordinate committees to the CDDH

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

In accordance with the terms of reference given it by the CDDH, this Committee had examined at its 29th meeting (3-5 April 2002) the issue of protecting human rights during armed conflicts, and during internal disturbances and tensions. It had focused on three specific questions: Article 15 of the European Convention of Human Rights, a possible fact-finding mechanism, and the proposed Committee of Ministers recommendation on situations where there was a threat of serious or massive human rights violations, calling on states to take measures to protect human rights more effectively in such situations. The DH-DEV intends to resume discussion of these questions at its next meeting (9-11 October 2002), with a view to submitting its conclusions to the CDDH. The DH-DEV will continue the consideration of these items at its 30th meeting (9-11 October 2002), so as to submit its conclusions to the CDDH.

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

At its 5th meeting (22-24 May 2002), this Group continued the preparation of a number of feasibility studies, dealing respectively with (i) ways of reinforcing interaction between the Strasbourg Court and national courts; (ii) the best way of conducting the preliminary examination of applications ; (iii) Court power to refuse to examine in detail applications which raised no substantial issues under the Convention, and a system for referring applications back to national authorities. As far as the first item is concerned, it was decided to organise a seminar in Strasbourg, from 9 to 10 September 2002 on the topic "Partners for the Protection of Human Rights: Reinforcing Interaction between the European Court of Human Rights and National Courts". The seminar will offer an opportunity to discuss the potential and the limits of current means of interaction and will consider the possibilities for new forms of interaction from various perspectives (e.g., the approach of a European judge, a national judge, a lawyer, a scholar) .

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

At its 51th meeting (20-22 March 2002), this Committee continued its work on the improvement of the implementation of the Convention in law and in practice in member States. In this context, it elaborated a draft recommendation on "the publication and dissemination in the member states of the text of the European Convention on Human Rights and of the case law of the European Court of Human Rights". A draft explanatory memorandum to the draft recommendation is to be finalised at its next meeting (11-13 September 2002). Furthermore, the DH-PR is preparing proposals for the CDDH concerning: the existence of effective remedies at national level, including means of compensation for violations found by national authorities; and systematic screening of the compatibility of draft legislation, regulations and administrative practice with the standards laid down in the Convention. Finally, the Committee is participating in the preparation of elements for the future interim report of the CDDH (see above) concerning in particular (i) friendly settlements; (ii) the election of judges of the Court of Strasbourg ; (iii) "clone cases" and (iv) the treatment of certain matters of lesser importance.

Group of Specialists on access to official information (DH-S-AC)

On 21 February 2002, at their 784th meeting, the Ministers' Deputies adopted unanimously Recommendation Rec (2002) 2 on access to official documents, which was prepared by the DH-S-AC. The latter devoted its 9th meeting to the preparation of a Seminar "What access to public documents?"(Strasbourg, 27-29 November 2002), with a view to facilitating the rapid implementation, at domestic level, of this recommendation.

Publications

European Ministerial Conference on Human Rights and Commemorative Ceremony of the 50th anniversary of the European Convention on Human Rights (Rome, 3-4 November 2000) – Proceedings

92-871-4746-9

(Available in English and French)

European Social Charter

A Council of Europe Treaty safeguarding Human Rights

The following text is taken from a leaflet existing in English, French, German, Italian, Russian and Albanian.

The European Social Charter (referred to below to as "the Charter") sets out rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States Parties. It was recently revised, and the 1996 revised European Social Charter, which came into force in 1999, is gradually replacing the initial 1961 treaty.

Rights guaranteed by the Charter

The rights guaranteed by the Charter concern all individuals in their daily lives:

Housing

- construction of housing in accordance with families' needs;
- reduction in the number of homeless persons;
- universally assured access to decent, affordable housing;
- equal access to social housing for foreigners.

Health

- accessible, effective health care facilities for the entire population;
- policy for preventing illness with, in particular, the guarantee of a healthy environment;
- elimination of occupational hazards so as to ensure that health and safety at work are provided for by law and guaranteed in practice.

Education

- a ban on work by children under the age of 15;
- free primary and secondary education;
- free vocational guidance services;
- initial and further vocational training;
- access to university and other forms of higher education solely on the basis of personal merit.

Employment

- a social and economic policy designed to ensure full employment;
- the right to earn one's living in an occupation freely entered upon;
- fair working conditions as regards pay and working hours;
- action to combat sexual and psychological harassment;
- prohibition of forced labour;
- freedom to form trade unions and employers' organisations to defend economic and social interests; individual freedom to decide whether or not to join them;
- promotion of joint consultation, collective bargaining, conciliation and voluntary arbitration;
- the right to strike.

Social protection

- the right to social security, social welfare and social services;
- the right to be protected against poverty and social exclusion;
- special measures catering for families and the elderly.

Movement of persons

- simplification of immigration formalities for European workers;
- the right to family reunion;
- the right of non-resident foreigners to emergency assistance up until repatriation;
- procedural safeguards in the event of expulsion.

Non-discrimination

- the right of women and men to equal treatment and equal opportunities in employment;
- a guarantee that all the rights set out in the Charter apply regardless of race, sex, age, colour, language, religion, opinions, national origin, social background, state of health or association with a national minority.

European Committee of Social Rights

The European Committee of Social Rights (referred to below as "the Committee") ascertains whether countries have honoured the undertakings set out in the Charter. Its twelve independent, impartial members are elected by the Council of Europe Committee of Ministers for a period of six years, renewable once. The Committee determines whether or not national law and practice in the States Parties are in conformity with the Charter (Article 24 of the Charter, as amended by the 1991 Turin Protocol).

A monitoring procedure based on national reports

Every year the States Parties submit a report indicating how they implement the Charter in law and in practice. Each report concerns some of the accepted provisions of the Charter.

The Committee examines the reports and decides whether or not the situations in the countries concerned are in conformity with the Charter. Its decisions, known as "conclusions", are published every year.

If a state takes no action on a Committee decision to the effect that it does not comply with the Charter, the Committee of Ministers addresses a recommendation to that state, asking it to change the situation in law or in practice. The Committee of Ministers' work is prepared by a Governmental Committee comprising representatives of the governments of the States Parties to the Charter, assisted by observers representing European employers' organisations and trade unions[1].

A collective complaints procedure

Under a protocol opened for signature in 1995, which came into force in 1998, complaints of violations of the Charter may be lodged with the European Committee of Social Rights.

Organisations entitled to lodge complaints with the Committee:

- In the case of all states that have accepted the procedure:

1. The ETUC, UNICE and the IOE[1];
2. Non-governmental organisations (NGOs) with consultative status with the Council of Europe which are on a list drawn up for this purpose by the Governmental Committee;
3. Employers' organisations and trade unions in the country concerned;

- In the case of states which have also agreed to this:

4. National NGOs.

The complaint file must contain the following information:

a. the name and contact details of the organisation submitting the complaint;
b. proof that the person submitting and signing the complaint is entitled to represent the organisation lodging the complaint;
c. the state against which the complaint is directed;
d. an indication of the provisions of the Charter that have allegedly been violated;
e. the subject matter of the complaint, i.e. the point(s) in respect of which the state in question has allegedly failed to comply with the Charter, along with the relevant arguments, with supporting documents.

The complaint may be submitted freely on the basis of the above, or using a form. It must be drafted in English or French in the case of organisations in categories 1 and 2 above. In the case of the others (categories 3 and 4), it may be drafted in the official language, or one of the official languages, of the state concerned.

The Committee examines the complaint and, if the formal requirements have been met, declares it admissible.

1. European Trade Union Confederation (ETUC), Union of Industrial and Employers' Confederations of Europe (UNICE) and International Organisation of Employers (IOE).

Once the complaint has been declared admissible, a written procedure is set in motion, with an exchange of memorials between the parties. The Committee may decide to hold a public hearing.

The Committee then takes a decision on the merits of the complaint, which it forwards to the parties concerned and the Committee of Ministers in a report, which is made public within four months of its being forwarded.

Finally, the Committee of Ministers adopts a resolution. If appropriate, it may recommend that the state concerned take specific measures to bring the situation into line with the Charter.

Effects of the application of the Charter in the various states

As a result of the monitoring system, states make many changes to their legislation or practice in order to bring the situation into line with the Charter. Details of these results (and current developments) are described in the "Survey", published annually by the Charter Secretariat.

Conferences, seminars, meetings, workshops, training programmes

- **4-6 June 2002, Moscow, Russian Federation**
  Seminar on the revised European Social Charter
- **26-27 June 2002, Yerevan, Armenia**
  Seminar on the revised European Social Charter
- **27-28 June 2002, Tirana, Albania**
  Seminar on the revised European Social Charter

Publications

- **Collective complaints procedure. Decisions on admissibility – 1998-2002**
  (available in English and French)
- **Collective complaints procedure. Decisions on the merits – Volume 1 (1999-2000), Volume 2 (2001-2002)**
  (available in English and French)
- **Safeguarding Adults and Children against Abuse. Integration of people with disabilities (2002)**
  ISBN 92-871-4919-4
  (available in English; French edition forthcoming)
- **Le droit syndical et le droit de négociation collective (2e édition – 2002)**
  Cahiers de la Charte Social e– n° 5
  ISBN 92-871-3157-0
  (English second edition forthcoming)

Social Charter Internet site: http://www.coe.int

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

Signatures and ratifications

Azerbaijan and Armenia ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 15 April and 18 June 2002 respectively. It is now in force in 43 of the Council of Europe's member states.

The Convention is open for signature by the member states of the Council of Europe. Since 1 March 2002, the Committee of Ministers of the Council of Europe may also invite any non-member state of the Council of Europe to accede to the Convention.

On 21 June 2002, the Committee of Ministers decided to invite the **Federal Republic of Yugoslavia** to accede to the Convention.

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 it considers necessary 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.

The details of the CPT's visits and published reports for the period 1 March to 30 June 2002 are given below.

Visits

Turkey

(21 to 27 March 2002)

A delegation of the CPT carried out an *ad hoc* visit to Turkey.

One of the main purposes of the visit was to examine the implementation in practice of recent legal reforms concerning custody by law enforcement agencies. The CPT's delegation also explored recent cases of resort to the provisions of Article 3(c) of Legislative Decree No. 430, under which prisoners who have to be questioned as part of the investigation of offences giving rise to the declaration of a state of emergency may be returned to the custody of law enforcement agencies. In this connection, the delegation visited the Ankara Police Headquarters (Anti-Terror Department) as well as various police and gendarmerie establishments in the Diyarbakır province. Prisoners were also interviewed in the Diyarbakır I and II prisons.

In addition, the CPT's delegation reviewed the development of communal activities for inmates in the new F-type prisons. For this purpose, a visit was carried out to Sincan F-type Prison.

During the visit, the CPT's delegation met Mr Hikmet Sami Türk, Minister for Justice, and had discussions with senior officials from the Ministries of Justice, the Interior, Foreign Affairs and Health. Other officials met included Mr Gökhan Aydemir, Governor of the State of Emergency Region, Mr Sait Gürlek, Chief Public Prosecutor of the Republic in the Diyarbakır province, and Mr Saban Ertürk, Chief Public Prosecutor at the Diyarbakır State Security Court.

The CPT's delegation also held talks with representatives of the Human Rights Association in Ankara and Diyarbakır, as well as with representatives of the Bar Association in Diyarbakır.

Bulgaria

(17 to 26 April 2002)

A delegation of the CPT carried out a periodic visit to Bulgaria. It was the Committee's third visit to Bulgaria.

During this visit, the CPT's delegation met Mr Anton Stankov, Minister of Justice, and Mr Julian Nakov, Deputy Minister of Education. It also held talks with the General Prosecutor's Office and with senior officials from the Ministry of Internal Affairs, the Ministry of Health, the Ministry of Labour and Social Policy, and the Ministry of Defence.

The CPT's delegation reviewed measures taken by the Bulgarian authorities in response to the Committee's recommendations made after its 1999 visit, in particular as regards the safeguards offered to persons detained by the police, the conditions in the country's investigation detention facilities and the treatment of prisoners at Burgas Prison. Issues tackled for the first time in Bulgaria included the situation of persons placed in a correctional boarding school and the treatment of servicemen held in military detention facilities.

The delegation visited the following places:

Police establishments

– District Police Directorate, Botevgrad
– 1st District Police Directorate, Burgas
– 3rd District Police Directorate, Burgas
– District Police Directorate, Byala Slatina

– District Police Directorate, Kazanluk
– Police Station at Sofia Railway Station
– District Police Directorate, Vratsa
– Petrich National Border Police Station

Prisons

– Burgas Prison
– Pleven Prison
– Reception/transit cells at Sofia Prison

Investigation detention facilities at

– Botevgrad, Burgas, Byala Slatina, Gabrovo, Kazanluk, Petrich, Plovdiv, Vratsa
– "Major Vekilski" 2, Sofia
– "Maria Louisa" 110 A, Sofia

Psychiatric establishments

– Karlukovo State Psychiatric Hospital
– Home for adults with mental disorders in the village of Razdol, Strumyani municipality

Military detention facilities

– Temporary detention facility of the Regional Army Security Service, Sofia
– Detention facility of the 9th Armoured Tank Brigade, Gorna Banya
– Detention Facility of the Training Centre for junior officers and new recruits, Unit No.14 460, Pleven

Other establishments

– Correctional boarding school in the village of Jagoda, Muglizh municipality.

Czech Republic

(21 to 30 April 2002)

A delegation of the CPT carried out a visit to the Czech Republic. It was the CPT's second periodic visit to the Czech Republic.

During this visit, the CPT's delegation met Bela Hejná, Deputy Minister of Labour and Social Affairs, Alois Cihlár, Deputy Minister of Justice, Petr Ibl, Deputy Minister of Interior, and Antonin Malina, Deputy Minister of Health. It also held talks with Jan Jarab, Government's Commissioner for Human Rights.

The CPT's delegation reviewed measures taken by the Czech authorities in response to the Committee's recommendations made after its 1997 visit, in particular as regards the safeguards offered to persons detained by the police. Issues tackled for the first time in the Czech Republic included the conditions of stay in holding facilities for foreigners as well as the treatment of psychiatric patients.

The delegation visited the following places:

Establishments under the authority of the Ministry of Interior

Ostrava region:
– Masna District Police Station, Ostrava
– Masna Municipal Police Station, Ostrava
– Cesky Tesin-Chotebuz Border Police Station

Plzen region:
– Regional Police Headquarters, Plzen
– Perlova Police Station, Plzen
– Aliens Police Station, Plzen
– Balkova Detention Centre for Foreigners

Prague region:
– Holding facilities for foreign nationals at Prague-Ruzyne International Airport
– Hybernska Police Station, Prague
– Vysehradska Police Station, Prague

Establishments under the authority of the Ministry of Justice

– Prague-Pankrac Prison
– Prague-Ruzyne Prison
– Plzen Prison
– Valdice Prison

Establishments under the authority of the Ministry of Health

– Opava Psychiatric Hospital

Establishments under the authority of the Ministry of Labour and Social Affairs

– Ostravice Social Care Home for Mentally Handicapped Juveniles

Ireland

(20 to 28 May 2002)

A delegation of the CPT carried out a visit to Ireland. It was the CPT's third periodic visit to Ireland.

During this visit, the delegation met John O'Donoghue, Minister for Justice, Equality and Law Reform, Micheál Martin, Minister for Health and Children, and Michael Woods, Minister for Education and Science, as well as the General Secretaries and other senior officials from those ministries. It also held consultations with members of the Irish Human Rights Commission and with the newly appointed Prisons Inspector.

The CPT's delegation examined the treatment of persons detained by the *Garda Síochána* (police) and developments concerning safeguards against police ill-treatment. It also reviewed the situation in prisons and carried out a follow-up visit to the Central Mental Hospital. In addition, for the first time in Ireland, the delegation examined the situation of persons cared for in intellectual disability services and of detained children.

The delegation visited the following places:
– Garda Síochána
– Cobh Garda Station
– Bridewell of the Garda Síochána, Cork
– Gurranabraher Garda Station
– Bridewell of the Garda Síochána, Dublin
– Store Street Garda Station, Dublin

Prisons

– Cork Prison
– Cloverhill Prison, Dublin
– Mountjoy Prison (including the Dóchas Centre for women), Dublin

Mental health establishments

– Central Mental Hospital, Dundrum
– Grove House Intellectual Disability Service, Cork
– St Joseph's Intellectual Disability Service, Portrane
– St Raphael's Centre, Youghal

Detention facilities for children

– Trinity House School, Lusk.

Chechnya

(24 to 29 May 2002)

The CPT recently completed its fifth visit to the Chechen Republic since the beginning of the current conflict.

The visit was a continuation of the work begun during a previous visit by the CPT to Chechnya in February this year.

During several days the CPT's delegation, which included two medical doctors, examined the situation of detention facilities in Grozny, Kurchaloy and Urus-Martan and spoke in private with people held there. For the first time, the delegation visited the Operative and Search Bureau of the Ministry of Internal Affairs in Grozny (commonly known as the "RUBOP").

An important focal point of the visit was the treatment of persons detained during special operations by federal forces. At a meeting with Lieutenant General V. Moltenskoy, Commander-in-Chief of the Allied Group of Armed Forces in the North Caucasian region, the CPT's delegation explored the implementation of Order No. 80, which introduced new measures aimed at combating human rights violations during such operations. Further, the delegation visited the village of Alkhan-Kala, which was the scene of two special operations in April this year, and spoke with its mayor, the Council of Elders and local inhabitants.

The problem of human rights violations and disappearances was also discussed with prosecutors, military commanders and members of the local administrations in Argun, Kurchaloy and Urus-Martan.

The information gathered by the CPT during its visit to the Chechen Republic and its consultations with the Russian authorities are confidential, in accordance with Article 11 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. In this context the Secretary General of the Council of Europe, Walter Schwimmer, expressed his hope that the Russian Federation will agree to make the CPT's findings available to the public. "Recently more and more member states of the Council have shown their willingness to make the reports of the Anti-Torture Committee public. This is a positive sign for more transparency in this field and an important support for the work of the Anti-Torture Committee. I would be happy if Russia could join these efforts, in order to contribute to the prevention of torture and inhuman or degrading treatment throughout our continent."

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

France

(17 to 21 June 2002)

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

The main purpose of the visit was to examine the treatment of aliens refused entry into France and those requesting asylum while held at Paris-Charles de Gaulle Airport. The delegation reviewed the measures taken by the French authorities to implement the CPT's recommendations in this field since its last visit in 2000. Further, for the first time, the delegation visited holding facilities used by the Customs Service at the airport.

During the visit, the delegation met Nicolas Sarkozy, Minister of the Interior, Internal Security and Local Freedoms, as well as senior officials from the Ministry of the Interior, Internal Security and Local Freedoms, the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Defence.

The delegation visited the following places at Paris - Charles de Gaulle Airport:

– Immigration Waiting Areas (ZAPI) II and III
– Transit Lounge at Terminal 2A
– Police Stations at Terminals 1, T9, 2A, 2C and 2F2
– Holding facilities used by Customs Units 2 and 4 and by Customs Control and Surveillance Brigades 2 and 4.

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 following govenments have agreed to the publication of CPT reports regarding visits listed below.

CPT visit to Turkey, 2-14 September 2001

The CPT's findings confirm the gradual improvement already observed by the Committee in 2000 as regards the treatment of persons detained by the police in Istanbul. According to the Committee, resort to methods of severe ill-treatment would appear to be far less frequent than in the past. However, a considerable number of allegations of serious forms of ill-treatment were received in the Sanliurfa and Van areas.

The CPT's delegation received no evidence of any form of physical ill-treatment of Abdullah Öcalan, and his material conditions of detention remain on the whole very good. Nevertheless, the CPT emphasises that he should at the earliest opportunity be integrated into a setting where contact with other prisoners and a wider range of activities are possible.

On the contentious issue of communal activities for prisoners in the new F-type prisons, the CPT welcomes the steps taken to supplement the activities already on offer by regular association (conversation) periods for up to ten prisoners. At the same time, it recommends that the existing precondition for enjoying this possibility be dropped. All prisoners should be eligible for participation in the association periods, irrespective of whether they already take part in another communal activity, concludes the Committee.

Recent constitutional and legislative changes in Turkey, reducing police custody periods and strengthening safeguards against ill-treatment, are welcomed by the Council of Europe's Anti-Torture Committee. Nevertheless, the CPT highlights further steps required, in particular as regards the right of access to a lawyer. Serious reservations are expressed concerning the operation of provisions applicable in the state-of-emergency region, which allow for prisoners to be returned by judicial decision to the custody of law enforcement agencies, for further questioning.

The report is available at the following address: http://www.cpt.coe.int

CPT visit to Switzerland, 5-15 February 2001

The report is published after receiving a green light from the Federal Council, together with its response.

The great majority of persons detained by the police stated that they had been properly treated. The very few allegations of ill-treatment received concerned disproportionate use of force at the time of apprehension. Despite this rather favourable situation, there remains a need, in the CPT's view, for the competent authorities to remain vigilant. The Committee welcomes the large-scale project to unify the criminal procedure in Switzerland, which meets the most important CPT recommendations concerning safeguards against ill-treatment.

In its report, the Committee severely criticises the forcible removals of foreign nationals by air (the so-called level 3 and 4 deportations), which present a manifest risk of inhuman and degrading treatment. The Committee formulates guidelines aiming at preventing such a risk: prohibition of methods likely to obstruct the respiratory tracts, introduction of procedures to prevent positional asphyxia, proper training of escorting staff. In its response, the Federal Council stresses that the CPT's recommendations have already been implemented to a large extent and that instructions on this subject are being prepared at national level.

For the first time, the Committee visited a private psychiatric establishment, the Clinic in Littenheid. The living conditions and treatment of patients were of a very high standard. However, the Committee makes recommendations concerning the legal safeguards surrounding the involuntary placement of patients. The Swiss authorities indicate in their response that the implementation of these recommendations is currently being examined in the framework of the review of the Law on Guardianship.

The Correctional Centre for Juveniles in Prêles gave rise to concern for the CPT: allegations of frequent acts of violence and threats among residents, poor material conditions and absence of outdoor exercise for juveniles punished with cellular confinement. In their response, the Swiss authorities outline the measures taken to combat violence and to improve the conditions in the disciplinary cells.

The CPT's report and the Federal Council's response are available on the website http://www.cpt.coe.int

CPT visit to the United Kingdom, 4-16 February 2001

The report is published together with the response of the United Kingdom.

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

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

The report and response are available on the website http://www.cpt.coe.int

CPT visits to Poland, 8-19 May 2000

A report issued by the CPT assesses the treatment of people held in police stations, prisons, psychiatric hospitals and centres for illegal aliens in Poland. The report is published at the Polish authorities' request, together with their response. It covers the CPT's second visit to Poland.

A number of persons interviewed by the CPT's delegation alleged that they had been physically ill-treated by the police. In their response, the Polish authorities indicate that they have reinforced the supervision of police activities and intensified human rights training of police officers.

At Przemysl Prison, the CPT's delegation was inundated with allegations of ill-treatment of inmates by prison officers. The Polish authorities have subsequently imposed disciplinary sanctions on certain staff members and introduced measures to improve staff training and managerial control.

The CPT also expresses concern about the steady rise of the Polish prison population and recommends a range of measures to counter this trend. In their response, the Polish authorities refer to plans to send more prisoners to semi-open establishments and to provide 20,000 new prison places by the year 2012.

The CPT gained a generally positive impression of Starogard Gdanski Neuro-Psychiatric Hospital, which offered a range of therapeutic options to patients. The Polish authorities indicate that the refurbishment programme underway at the hospital will be completed by 2004.

The report is available on the website at http://www.cpt.coe.int

CPT visits to Moldova, 10-22 June 2001

A report issued by the CPT assesses the treatment of people held in police establishments, prisons and other places of detention in Moldova.

The CPT's main concerns are the situation of people deprived of their liberty by the police as well as poor conditions in prisons; however, there have been notable improvements in the latter establishments.

The CPT's delegation received widespread allegations of physical ill-treatment of persons deprived of their liberty by operational police departments, mainly during interrogations. In their response, the Moldovan authorities indicate that police activities are under constant supervision and that every instance of abuse is severely sanctioned. Concerning the remand centres of the Ministry of Internal Affairs, the CPT requests that people detained are guaranteed conditions which respect the basic necessities of life (access to drinking water, sufficient food, adequate level of hygiene, etc.). The Moldovan authorities highlight their efforts in this field, but at the same time underline that due to the economic situation, it is not possible to grant the necessary financial resources.

The CPT welcomes the positive changes observed at Chişinău Prison No. 3 and in particular the removal of the shutters covering cell windows; as a result, there was better

access to natural light and fresh air. In their response, the Moldovan authorities also set out the measures taken at Prison No. 2 and Colony No. 8 for prisoners suffering from tuberculosis in Bender and at Pruncul Prison Hospital, to implement the CPT's recommendations. Moreover, they indicate that, following a Government decision of 12 March 2002, the prison system has benefited from an increase in the provision of food and medication. Nevertheless, the supply of medication remains problematic.

The material conditions of detention of life-sentenced prisoners, who had recently been transferred to a special unit at Rezina Prison No. 17, had significantly improved. As recommended by the Committee, a new instruction aimed at defining the regime for such prisoners was to be drawn up.

The CPT's report is published with the agreement of the Moldovan authorities, together with their response. It covers the Committee's second periodic visit to the Republic of Moldova, which took place in June 2001.

The report is available in French at: http://ww.cpt.coe.int

Members of the CPT at 30 June 2002

Elections of CPT members were held between 1 March and 30 June 2002.

British criminologist, Silvia Casale, was re-elected President of the CPT.

Estonian psychiatrist and President of the Estonian Medical Association, Andres Lehtmets, was elected first Vice-President and Zdenek Hájek, a Czech lawyer, was elected second Vice-President.

The three together make up the CPT's Bureau and their term of office will run for two years.

Ingrid Lycke Ellingsen, Psychiatrist, was re-elected in respect of **Norway**. Roger Beauvois, Chamber President, Court of Cassation, was elected in respect of **France**. Their term of office ends on 19 December 2005. A new member from **Sweden** was elected to the CPT. Thomas Hammarberg has been an ambassador and Regional Adviser for Europe, Central Asia and Caucasus with the United Nations Office of the High Commissioner for Human Rights. He was also Secretary General of Amnesty International from 1986 to 1990.

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

Seminar

Association for the Prevention of Torture (APT) Workshop "How to improve the implementation of CPT's recommendations?", Council of Europe, Strasbourg, 24-25 June 2002:

On the occasion of the 15th anniversary of the adoption of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the Convention), the Association for the Prevention of Torture convened a workshop to discuss ways of improving the implementation of the recommendations issued by the CPT. The 34 participants from different backgrounds (CPT members and secretariat, representative of governments, other international organisations and NGOs) explored the experiences of implementing CPT recommendations with the aim of identifying good practice and difficulties.

Declaration of the Secretary General on the CPT

Council of Europe's Anti-Torture Committee irreplaceable on international human rights stage, says Secretary General Walter Schwimmer

On 25 June 2002, Strasbourg, the Secretary General of the Council of Europe, Walter Schwimmer, marked with pride the 15th anniversary of the adoption by the Committee of Ministers of the European Convention for the Prevention of Torture, on 26 June 1987. Since then, the Anti-Torture Committee (CPT) set up by the Convention has established itself as a major player on the international human rights stage.

During over 150 visits to more than 40 European countries, the CPT has unremittingly highlighted situations involving the torture and ill treatment of persons deprived of their liberty and has urged the introduction of measures to put an end to such practices. The CPT's recommendations have led to a wide range of improvements in various countries, including increased supervision of police activities, the strengthening of legal safeguards against ill treatment, the banning of dangerous forms of restraint, and the closing-down of poor detention and interrogation facilities. It was the CPT that visited Abdullah Öcalan in his Turkish prison, after his arrest and after his trial, as well as detention centres in the Chechen Republic including Chernokozovo, as far back as February 2000, and "suspected international terrorists" detained in the UK following the events of 11 September 2001, to recall but a few prominent examples.

Mr Schwimmer recalled that the work of the Council of Europe and of the CPT for the prevention of torture and inhuman treatment goes beyond "inspections" and recommendations based on them. In this context, he drew attention to the assistance given to the Russian authorities to enable them to eradicate human rights violations by members of the armed forces and law enforcement agencies in the Chechen Republic, and to bring to justice those responsible for past abuses. Further, he reaffirmed his confidence that the Council of Europe support for the Turkish National Plan will help the authorities to build upon the positive steps recently taken with a view to stamping out all forms of ill treatment by law enforcement officials throughout the country. Such Council of Europe assistance is at the disposal of any member country willing to further improve anti-torture prevention.

Secretary General Schwimmer also welcomed the recent progress at United Nations level towards the creation of a universal system for the prevention of torture based on visits to places of deprivation of liberty, and hopes that the sustained efforts towards this goal will soon be crowned with success.

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

Interview with Silvia Casale, President of the CPT

26 June 2002 – The British crime expert, Silvia Casale, President of the Committee for the Prevention of Torture, set up in the framework of the Convention, evokes the work accomplished and talks about the Committee's future, recalling that "even if we see improvements, we need to remain vigilant because things can always slip backwards".

What's your verdict on the last fifteen years?

The main thing is that participating countries have got used to working with us, and understand our methods and accept them. We can talk to prisoners without any constraints and confidentially – which we couldn't have done just a few years ago. And a lot of countries have changed their laws on the strength of our recommendations.

Have conditions in European prisons improved overall as a result of the CPT's work?

One of the biggest changes is that many countries have got rid of the permanent metal shutters they used to have on cell windows, which forced prisoners to live in the dark or in artificial light. Very small cells – some of them real "cages" – are on the way out too. And prisoners can get a lawyer's help and medical aid faster than they used to, especially in police stations.

Have some things got worse?

The biggest problem is overcrowded prisons, and it's general. It automatically makes conditions worse, even when they're good to start with, and that applies to space, food and hygiene. It increases stress and makes for violence, so there's far more insecurity than there used to be.

What special problems will opening the Convention to non-member states create for the CPT?

If we carry out inspections in non-member states, in Europe or outside, we'll be using the very same methods we use in member states. We won't be making any distinctions.

What are the CPT's priorities for the future?

As well as extending our activities outside Europe, we want to carry out more short inspections, focusing on specific problems. We also want to improve our "rapid reaction" capability, when problems are reported to us or we discover unacceptable situations. Our recommendations need to be followed up better and implemented faster, and we count on our partners to help us with that. We'll also be inspecting other facilities, such as social homes and homes for children. Above all, we know that ground won can be lost again, so we'll be staying vigilant.

Of the things you have seen, which have marked you most?

One of the prisons I once visited was so dark, gloomy and badly-lit that nearly all the prisoners were sick and desperate. I went back a few years later, and was delighted to find it bright and well-lit – which had done a lot for the prisoners' health. At the other extreme, I shall never forget an old man I once saw, doomed to end his days in a minute cell, and I'm sickened at still seeing prisoners who have obviously been beaten up.

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, it entered into force on 1 February 1998. The current state of signatures and ratifications of the convention is shown in the appendix to this *Bulletin*; for detailed, up-to-date information, see the Council of Europe's Treaty Office site, http://conventions.coe.int/.

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 May 2002, the Advisory Committee had received 29 state reports and already adopted 19 opinions, two of them, in respect of Armenia and Austria, adopted on 16 May 2002, during its 14th plenary meeting. All these opinions have been forwarded to the Committee of Ministers.

As at 31 May 2002, the Committee of Ministers had adopted and made public conclusions and recommendations in respect of 13 state parties (for details see: http://www.humanrights.coe.int/Minorities/).

Stability Pact for South Eastern Europe

Three projects concerning national minorities are currently being implemented. These projects include: (i) a non-discrimination review aimed at identifying discriminatory provisions in the legislation, policies and practices of the countries of the region and recommending action to bring legislation and practice into line with European standards; (ii) the acceptance and implementation of existing standards, with a view to encouraging the countries in the region to sign and ratify all relevant international standards and also ensure that these standards are fully implemented in practice at national level and local level; (iii) a project concerning bilateral co-operation agreements aimed at reinforcing and developing bilateral co-operation in the field of minorities in a way that is consistent and co-ordinated with existing multilateral standards, and in particular those of the Framework Convention for the Protection of National Minorities.

Among the activities carried out between 1 March and 30 June 2002 in the framework of these three projects :

- Ohrid, 5-7 March: seminar on the international minority rights standards organised in co-operation with the Association for Democratic Initiatives;
- Strasbourg, 23-24 May: meeting of the independent experts of the Country Group, along with the governmental contact persons for each participating Country and some members of the methodology group assisting on the project to exchange first experiences of the non-discrimination review work being carried out and to identify future strategies;
- Rijeka, 27-28 May: Round Table on the launching of a Minority Forum in the Primosko Goronska county organised in co-operation with the Community of Serbs in Rijeka;
- Chişinău, 31 May: Round Table on "The Protection of National Minorities through Bilateral Agreements

concluded by Moldova", organised in co-operation with the Moldovan Helsinki Committee;
- Participation at an International Colloquium on "The Protection of National Minorities by their kin-states", Athens, 7-8 June ;
- Sebastopol, 19-20 June: Seminar on "Minority rights in a Democracy" organised in co-operation with the Council of Europe Kyiv office and the Konrad Adenauer Foundation.

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

Among the activities carried out in this framework during the reference period:
- Zagreb, 20-21 March: National Implementation Conference on the results of the monitoring of the Framework Convention for the Protection of National Minorities organised in co-operation with the Office for National Minorities of Croatia;
- Vilnius, 25-26 April: 9th meeting of Government offices for National Minorities organised in co-operation with the Department of National Minorities and Lithuanians living abroad of the Government of Lithuania;
- Strasbourg, 16-19 May: NGO training on the Framework Convention for the Protection of National Minorities organised in co-operation with Minority Rights Group International.

Media

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.

Freedom of expression and the fight against terrorism

On 14 May 2002, the Steering Committee on the Mass Media (CDMM) held a hearing in Strasbourg on questions concerning freedom of expression and information and the fight against terrorism with representatives of different organisations in the media sector. Following the creation by the Committee of Ministers of a Multidisciplinary Group on international action on terrorism (GMT), the CDMM had decided to explore this issue with a view to defining its future contribution to the debate. Although the hearing provided an opportunity to clarify a number of important issues, there was insufficient time to discuss in detail other practical aspects of media coverage of terrorism. Moreover, it was regretted that the authorities responsible for combating terrorism and for communication concerning anti-terrorist measures had not been represented. Accordingly, the CDMM agreed to organise a conference on the same subject at its next meeting, on 25 November 2002, in order to hear the views of a larger number of experts on the complex questions raised during the hearing.

Furthermore, the Steering Commitee decided to give its Group of Specialists on freedom of expression and other fundamental rights (MM-S-FR) new terms of reference to examine means of guaranteeing freedom of expression and information in the fight against terrorism, and what action the Council of Europe and its member states could or should take or support to enhance the media's contribution to better understanding between individuals, communities and cultures. To assist the MM-S-FR in its task, the CDMM decided to set up a new Advisory Panel on media and terrorism (AP-MT), for the purpose of collecting information on existing regulatory and self-regulatory initiatives concerning media coverage of terrorism, and the fight against it, and assess their adequacy and effectiveness. It will examine restrictions that are being placed on media freedoms in various countries in such a context and consider their justification in the light of Article 10 of the ECHR and the need to combat terrorism.

On-line services and democracy

Following the European Forum on the topic of harmful and illegal content on the Internet, which took place on 28 November 2001, the special web site (www.coe.int/cyberforum) dedicated to the event has been substantially developed and provides a wide range of information on self-regulatory initiatives taken at the level of European intergovernmental and non-governmental organisations as well as those existing at the national level in more than twenty countries. The site also contains information about a hearing organised by the Group of Specialists on on-line services and democracy (MM-S-OD) on 25 March 2002 in Strasbourg on the topic of Internet literacy, in particular the speakers' presentations and the general report.

The MM-S-OD has made substantial headway in the preparation of a draft Declaration of the Committee of Ministers on freedom of communication on the Internet. The text contains a number of principles which the member states of the Council of Europe should seek to abide by concerning, for example, the absence of prior control, the removal of barriers to participation of individuals in the information society, the freedom to provide services via the Internet, liability for content of communications, anonymity and the independence of regulatory bodies.

Activities for the development and consolidation of democratic stability

In the framework of its assistance programmes, the Media Division continued its efforts geared towards ensuring the compatibility of the national legislative framework in the media field with European standards. In this context, the first legislative expertises on amendments to the Broadcasting Law and on a draft Press Law were organised in Turkey in March and May 2002 respectively.

A mission to Belgrade to provide expertise on the draft Broadcasting Law was organised in May 2002 in the framework of the Joint Initiative between the European Union and the Council of Europe to assist the Serbian authorities with the adaptation of the legal framework in the media field. During this mission, Council of Europe experts analysed and discussed the proposed draft with Serbian parliamentarians. At the same time, in the framework of the EU/Council of Europe Joint Initiative to assist the Montenegrin authorities with the adaptation of their legal framework in the media field, legislative assistance was provided to the authorities who are currently drawing up a draft Law on Radio and Television of Montenegro as well as a draft Media Law.

The Council of Europe's expertise has also been made available to other member states such as Armenia, Azerbaijan and Georgia, which are currently amending their media legislation in order to fulfil their obligations with regard to the Organisation.

Co-operation programmes

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 – constitutes a priority among the initiatives undertaken by the Council of Europe to foster democratic security.

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.

The Media Division has also organised a series of training programmes aimed at ensuring the implementation of the principles developed by the European Court of Human Rights in the field of freedom of expression. In the framework of a Joint Programme set up between the Council of Europe and the European Commission for Ukraine, an opening Conference took place in March in Kyiv as a prelude to four training workshops held in various regions of the country for Ukrainian judges and prosecutors. The participants had the opportunity to familiarise themselves with the general principles developed by the European Court and discuss how these could be implemented in practice in the Ukrainian context. Similar training sessions for magistrates were organised in Serbia and Montenegro.

In order to build on what has been accomplished in the field of media reform in the countries of South-Eastern Europe and to allow the process of democratisation and stabilisation to continue, the Council of Europe has begun the implementation of a three-year follow-up programme within the media component of the Stability Pact for South Eastern Europe (see the final report of first programme of activities from June 2000 to December 2001 in the list of publications). The actual implementation of the programme started in February 2002 with a financial contribution from the Government of Luxembourg. Recently, the Government of Norway has also made a contribution and other donor countries are expected to follow.

Further 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.

Publications

Freedom of expression in Europe – Case law concerning Article 10 of the European Convention on Human Rights
Human rights files No. 18 (revised edition)
Available in English and French.
ISBN : 92-871-4879-1

Translation in Serbian of specific Council of Europe publications in the media field:
No. 1: Case law concerning Article 10 of the European Convention on Human Rights
ISBN: 86-82863-065
No. 2: Compendium of Council of Europe legal texts concerning the media
No. 3: Media and elections – Handbook

Stability Pact for South Eastern Europe – Media component: Council of Europe contribution (June 2000-December 2001)
Final report (Available in English only)
ATCM (2001) 4 (Rev)

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

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 24 of the 44 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.

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.

Statute

On 19 June 2002 the Committee of Ministers adopted Resolution Res (2002), 8 establishing a statute for ECRI. ECRI's statute guarantees the principle of its members' independence and impartiality and anchors at a pan-European level ECRI's specific role in the fight against racism, xenophobia, anti-Semitism and intolerance.

The full text of the statute appears in Appendix 2.

Country-by-country

A final report on Portugal was adopted at ECRI's plenary in June 2002. The draft reports on Andorra, Azerbaijan, Liechtenstein, Lithuania, Moldova and Sweden were discussed at the same meeting, before transmission to the national authorities of these countries for a process of confidential dialogue.

These reports form part of ECRI's second round of monitoring member states' laws, policies and practices to combat racism and intolerance. The reports include a close examination of the situation concerning racism and intolerance in each country and suggestions and proposals intended to help governments overcome any problems identified.

In Autumn 2002, contact visits to Armenia, Iceland, Luxembourg, San Marino, Slovenia and Spain will take place, prior to the preparation of second reports on these countries. The aim of the contact visits is to obtain as detailed and complete a picture as possible of the situation regarding racism and intolerance in the respective countries. The visits provide an opportunity for ECRI's rapporteurs to meet officials from ministries and national public authorities, as well as representatives of NGOs and anyone concerned with issues within ECRI's remit.

An *ad hoc* working group is currently preparing the third round of ECRI's country-by-country work, which will begin in January 2003. It will continue the work of the second round, but with greater emphasis on implementation (i.e., whether any action has been taken following the recommendations of ECRI's previous reports) and specialisation, focusing on issues of particular concern in the different countries.

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 liason 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 the finalisation and will be calling for its swift ratification.
· contribution to the World Conference against racism, racial discrimination, xenophobia and related intolerance.

General themes

ECRI general policy recommendations

Persistent racial discrimination at various levels remains a fundamental problem in Europe. It is closely linked to a lack of effective anti-discrimination legislative provisions in many member states, which do not all have comprehensive legislation to combat discrimination. This gap is a recurrent feature of ECRI's country-by-country analyses.

Therefore, in 2001, ECRI decided that its next general policy recommendation would be on national legislation against racism and racial discrimination and entrusted a working group on anti-discrimination legislation with the task of preparing a draft recommendation listing the key elements of such legislation. 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.

Relations with civil society

Response to recent world events

The importance ECRI has always attached to relations with civil society has been highlighted by the terrorist attacks in the United States of 11 September 2001, and their aftermath.

ECRI has responded to these events by focusing its reaction on the impact of this situation on the fight against racism and intolerance, in order to contribute in the most practical and flexible manner possible to the general efforts being made by the Council of Europe, in particular by intensifying multicultural dialogue. It prepared a Declaration on these issues at its plenary meeting of December 2001, and adopted, on 21 March 2002, an action programme focused on relations with civil society, with the aim of involving the various sectors of society in intercultural dialogue.

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

Other activities

Follow-up to the UN World Conference against racism, racial discrimination, xenophobia and related intolerance

ECRI was represented by its Chair in the *ad hoc* meeting of experts to exchange views on the implementation of the conclusions of the European and World Conferences against Racism which was organised in Strasbourg on 27-28 February 2002. The aim of the Council of Europe in organising this meeting was to provide a framework for exchanging views on the implementation of the Programme of Action adopted in Durban. The experts were of the opinion that the recommendations contained in the Programme of Action should lead to concrete initiatives on the basis of close co-operation between actors working in the field and avoiding any duplication of effort. The *ad hoc* meeting also stressed the importance of insuring good co-operation between the different regional organisations for the implementation of the conclusions of the World Conference.

Publications

Second report on Estonia

(CRI (2002) 1 – 23/04/2002)

Second report on Georgia

(CRI (2002) 2 – 23/04/2002)

Second report on Ireland

(CRI (2002) 3 – 23/04/2002)

Second report on Italy

(CRI (2002) 4 – 23/04/2002)

Second report on Romania

(CRI (2002) 5 – 23/04/2002)

Annual Report on ECRI's activities covering the period from 1 January to 31 December 2001

(CRI (2002) 19 – 29/05/2002)

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 responsability for co-ordinating these activities.

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

- A workshop on "Strategies for the promotion of women's participation in political and public life" was organised in co-operation between the Office of the United Nations High Commissioner for Human Rights, the Council of Europe Equality Division – DG II, and the Civil Society Resource Centre in Skopje on 19 June. The workshop participants included representatives of equality departments from several member states of the Council of Europe, independent experts, the Office of the Ombudsman, and representatives of civil society from "the former Yugoslav Republic of Macedonia" and the surrounding region. The workshop focused on three main areas, namely a) special measures for the achievement of gender equality and methodology for gender mainstreaming, b) strategies for combating women's poverty and c) strategies for the improvement of women's participation in political life.
- The Equality Division organised a conference in Moscow on 28 June 2002 in co-operation with the Human Rights Institute of Moscow. Its aim was to raise awareness of senior officials of the Government, the Parliament and the Administration of the President, as well as of civil society, on equality issues, by presenting the Council of Europe's standards in the field of equality between women and men as part of human rights on the one hand, and the Russian situation in law and in practice on the other hand. The conference focused on the following themes: equal rights between women and men, balanced participation of women and men in political decision-making and protection of women against violence.

Further information concerning activities in the field of equality between women and men is available on the Internet:

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

Publications

Fact sheet on gender mainstreaming

Report on national machinery, action plans and gender mainstreaming in the Council of Europe member states since the Beijing Conference

(EG (2002) 3)

Compilation of international texts on the role of women in conflict prevention and peacebuilding adopted since the United Nations Fourth World Conference on Women

(EG (2002) 4)

Twenty-five years of Council of Europe action in the field of equality between women and men

(EG (2002) 5)

Women in politics in the Council of Europe member states

(EG (2002) 6)

Inventory – Initiatives and actions regarding women and peacebuilding in Europe (bilingual English / French)

Co-operation and 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.

Turkey – new Joint Initiative

As part of current efforts to enhance the ability of the Turkish authorities to implement the National Programme for the Adoption of the Community Acquis (NPAA) in the Accession Partnership, a new European Commission/Council of Europe Joint Initiative with Turkey was concluded on 31 May 2002 in the priority area of democratisation and human rights. This two-year Initiative has three major components:

- the development of training capacities, for judges, prosecutors, lawyers and government officials, in the European Convention on Human Rights and the case law of the European Court of Human Rights
- a campaign to promote awareness and understanding about human rights among the public at large; and
- the provision of legal expertise on draft laws, aimed at aligning the national rule of law with European human rights standards.

Recommendations on long term training strategies for judges, prosecutors and public officials, curricula and materials on the ECHR and case law standards will be produced and 200 trainers trained. A comprehensive national approach to promoting human rights in Turkey will be activated, strengthening the role of Human Rights Councils to promote human rights awareness in the different provinces and promoting greater awareness among the general public. Assistance will be provided to the preparation of draft legislation incorporating European standards in relation to the judiciary, criminal norms, civil norms, data protection, human rights, freedom of media and expression and democratic institutions, including associations.

It is planned that high level expert advisory groups – made up of Council of Europe, European Commission and Turkish experts – will meet in Ankara in September in order to finalise plans of action under the different projects.

PHOTO : members of Human Rights Councils from North East Turkey meeting in Trabzon in May 2002 with representatives of the European Commission and Council of Europe and the Chairperson of the Turkish National Committee on the Decade for Human Rights Education.

Increased Training Activities for Judges and Lawyers in Montenegro and Serbia

In the town of Budva, Montenegro, a training seminar for 40 judges and lawyers was organised from 4 to 6 April by the HRCAD in co-operation with the Centre on Advice on Individual Rights in Europe (AIRE Centre) and CEDEM, a local NGO.

This seminar was the third in 2002 of a series of training seminars on the European Convention on Human Rights (ECHR) which have been organised in Montenegro and Serbia since 1999. At the request of participants in previous seminars, this time the focus was on "the interface between presumption of innocence, right to privacy and freedom of expression". The seminar was attended also by representatives of the Minister of Justice of Montenegro, the UN Office of the High Commissioner for Human Rights and the American Bar Association (ABA/CEELI).

A similar seminar will be organised in Belgrade for the Serbian judiciary from 27 to 29 September 2002. This seminar will complement the introductory training seminars on Article 10 of the ECHR – Freedom of Expression, which have been so far organised by the Media Division.

During the second half of 2002, the Directorate General of Human Rights will be able to expand its current training programme for all judiciary in FRY, including two training of trainers seminars (15-18 September and December 2002) and a number of introductory trainings on the ECHR for newly appointed judges. These additional activities, which are made possible thanks to generous voluntary contributions to the Council of Europe by the United Kingdom and Ireland, will be closely co-ordinated with the Judicial Training Centres of Serbia and Montenegro.

"Train the trainers" course for police

The "Police and Human Rights – Beyond 2000" Programme has now completed the pilot of the "train the trainers" course for police officers and the gendarmerie in Turkey.

The course is aimed at developing professionalism and respect for human rights in the Turkish National Police and the Gendarmerie in its behaviour and relations with the public. It will be evaluated in August/September 2002 and three more courses will be held in the future.

The European Platform for Police and Human Rights

In 1997, the Opening Conference of the Council of Europe Programme "Police and Human Rights – 1997-2000" took place in Strasbourg. Following this, representatives from police services and ministries, as well as members of NGOs working to prevent torture and other human rights violations and NGOs representing police unions from all over Europe met in order to address the issue of "police and human rights" from a new angle.

They established the "Joint Informal Working Group on Police and Human Rights" (JIWG) under the auspices of the Council of Europe.

The group focused on planning and drafting "an easy-to-use reference guide, which would allow police officers to assess the extent to which police practices adhere to and promote the standards and broader democratic values underlying the European Convention on Human Rights".

They met seven times during the following three years and the result of their work was the reference guide "Policing in a Democratic Society – Is Your Police Service a Human Rights Champion?" which was launched during the Closing Conference of the Council of Europe programme in December 2000. Since then it has been translated into a number of languages.

However, the members of the JIWG decided to carry on, and in June 2001 they gathered in Amsterdam and built up the "European Platform for Police and Human Rights". It was decided that it should become part of the Council of Europe follow-up programme "Police and Human Rights – Beyond 2000", and the programme-manager would become the Chair.

The European Platform met in Barcelona to clarify its mission and define its objectives.

It was decided to set up a Coordinators' Group that will be responsible for coordinating the activities and ensuring that the annual meeting will take place. The next annual meeting will be held in Riga from 26-27 September and, in conjunction with the Platform meeting, a Council of Europe Seminar for the Latvian police will take place on 25 September 2002. At the Riga meeting, a leaflet presenting the Platform will be launched and an application form in order to become a member of the Platform will be distributed.

Internet sites

Awareness: **http://www.humanrights.coe.int/aware**

Police: **http://www.humanrights.coe.int/police**

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-four 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

Death penalty

Protocol No. 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances

Protocol No. 13 was opened for signature in Vilnius on 3 May 2002. A complete list of signatories appears on page 1. The complete text of the protocol, with its explanatory memorandum, is reproduced in Appendix 1.

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.

Member states

Bosnia and Herzegovina

On 23 April 2002 Bosnia and Herzegovina joined the Council of Europe as its 44th member – bringing the Organisation ever closer to its pan-European ideal. Speaking on the eve of the ceremony, the Council's leaders welcomed the new addition to the European family.

Committee of Ministers Chairman-in-Office, Lithuanian Foreign Minister Antanas Valionis, underlined that "accession of Bosnia and Herzegovina to the Council of Europe is of utmost importance for its democratic development and the stability of the region. It is both a major step forward and a challenge". He also noted with satisfaction that during his recent visit to the country the highest state authorities had stressed their firm readiness to implement all commitments to the Council of Europe in strengthening democracy, respect for human rights and fundamental freedoms.

Parliamentary Assembly President Peter Schieder congratulated the citizens of Bosnia and Herzegovina on this important achievement. "Bosnia and Herzegovina faced the double challenge of building a democracy while healing the wounds left behind by the bloodiest conflict on Europe's soil since the second world war. Accession is recognition of the progress made in both respects. The tribute should go to those in Bosnia and Herzegovina who, throughout the years of conflict and divisions, maintained their commitment to tolerance, humanity and justice."

Declarations

Serbia and Montenegro

Declaration by the Chairman of the Committee of Ministers on Serbia and Montenegro, 20 March 2002

At the conclusion of negotiations between the highest representatives of the Federal Republic of Yugoslavia, Serbia and Montenegro, the Chairman of the Committee of Ministers stressed the importance of this type of contact for the Federal Republic of Yugoslavia's application to join the Council of Europe.

International Criminal Court

Declaration by the Committee of Ministers of 18 April 2002 on the International Criminal Court – forthcoming entry into force of the Rome Statute

The Committee of Ministers warmly welcomed the forthcoming entry into force of the Rome Statute, setting up the International Criminal Court, following the 60th ratification of the Statute on 11 April 2002.

It repeated its call for member, applicant and observer states to become Parties to the Statute and to enact without delay the necessary national implementing legislation in order to enable them to cooperate fully with the future International Criminal Court and to conduct domestic investigations and prosecutions of persons suspected of having committed a crime provided in the Rome Statute.

Recommendations to member states

Protection of women against violence

Recommendation Rec (2002) 5, 30 April 2002

The Committee of Ministers adopted innovative measures to combat violence against women, urging its member states to tighten laws and to act to change attitudes.

The Committee of Ministers' first text on the topic, the recommendation covers every potential area of gender-based violence, covering domestic violence, rape and sexual abuse, genital mutilation, human rights abuses by the state, violence during wartime and honour killings. It also looks at ways in which these crimes should be dealt with by the courts.

Proposals include measures that would allow victims of domestic violence to stay in their homes, making the violent partner leave, and thus shifting the current trend for victimised women to have to go into women's shelters. There is also a strong emphasis on assistance and protection for victims, through police and court action.

Family reunification

Recommendation Rec (2002) 4 on the legal status of persons admitted for family reunification, 26 March 2002

In this recommendation the Committee of Ministers lays down a number of principles for the use of member states.

They cover residence status, protection against expulsion of family members, access to the labour market, to education and to social rights, freedom of movement, political participation and acquisition of nationality.

Resolutions

ECRI statute

Resolution Res (2002) 8 on the statute of the European Commission against Racism and Intolerance (ECRI), 13 June 2002

On 19 June 2002 the Committee of Ministers adopted Resolution Res (2002) 8 establishing a statute for ECRI. ECRI's statute guarantees the principle of its members' independence and impartiality and anchors at a pan-European level ECRI's specific role in the fight against racism, xenophobia, anti-Semitism and intolerance.

The full text of the statute appears in Appendix 2.

Committee of Ministers' replies 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 or questions:

Chechen conflict

Assembly Recommendation 1548 (2002) on the conflict in the Chechen Republic. Committee of Ministers' reply, 18 April 2002

The Secretary General of the Council of Europe and the Minister for Foreign Affairs of the Russian Federation have agreed to prolong, until 4 July 2002, the Council of Europe consultative expert assistance to the Office of the Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms in the Chechen Republic.

The Assembly will be kept informed of developments in this respect.

The Committee of Ministers reminds the Assembly of its monthly discussions and dialogue on interim reports by the Secretary General (eighteen to date). Both the monthly interim reports and the addenda thereto are transmitted regularly to the Assembly.

The Assembly has also received the report of the Chairman of the Committee of Ministers, on his visit to the Russian Federation (15-16 January 2002) (document CM/Inf (2002) 7), which reflects, among other things, the concern, shared by the Committee and the Assembly, for improvement of the humanitarian situation in Chechnya and the region.

European Court of Human Rights

Assembly Recommendation 1535 (2001) on the structures, procedures and means of the European Court of Human Rights. Committee of Ministers' reply, 18 April 2002

The Committee of Ministers reminds the Assembly of its creation, in February 2001, of the Evaluation Group to examine possible means of guaranteeing the effectiveness of the European Court of Human Rights.

It draws the Assembly's attention to its Declaration on the protection of human rights in Europe – guaranteeing the long-term effectiveness of the European Court of Human Rights (see *Bulletin* No. 55, p. 40), and to its reply to Assembly Recommendation 1477. Both texts propose regular exchanges of information with the Assembly.

As far as budgetary considerations and possible modification of the Convention are concerned, the competent bodies are mandated to ensure the follow-up to the questions raised in the report of the Evaluation Group. This work is in progress. The CDDH has been instructed to present an interim activity report to the Committee of Ministers by 31 October 2002; the Assembly will be informed of the results.

Written question No. 403 to the Committee of Ministers by Mr Jurgens: "Hakkar case". Committee of Ministers' reply, 24 June 2002

(See *Bulletin* No. 55, p. 46.)

"The Committee of Ministers informs the honourable member that, during its examination of his question, the French Delegation provided information for the first six points raised therein. This information is reproduced in the appendix.

As regards the last issue raised in his question, the Committee of Ministers has taken note of the explanations provided by the French authorities regarding the delays incurred in the holding of the new trial. The new trial will now take place in November 2002. If this trial takes place as foreseen, the need for considering reopening this case will not arise."

Appendix. Information given by the Delegation of France

- *on what legal grounds Mr Hakkar is still being kept in prison, although his trial has been declared unfair, and he has in the meantime served his 18-year sentence*

"Mr Hakkar was sentenced by the Yonne Assize Court to life imprisonment, of which 18 years were unconditional (and not to 18 years' imprisonment) for intentional homicide, attempted intentional homicide, armed robbery, and further armed and other robberies. This sentence was suspended by the Criminal Judgments Review Board on 30 November 2000. He is not therefore imprisoned in execution of this sentence, which he is no longer serving at present. He is still, however, imprisoned in execution of sentences passed on him in criminal proceedings other than those which led him to apply to the European Commission of Human Rights. He was in fact sentenced to:

– 18 months' imprisonment for attempting to escape, by the Paris Appeal Court on 2 December 1988;
– 3 years for aiding and abetting escape, by the Paris Appeal Court on 5 February 1990;
– 8 years for aiding and abetting escape, by the Paris Appeal Court on 27 February 1992;
– 6 months for possessing narcotics, by the Reims Appeal Court on 14 March 1996."

- *whether the previous sentence has been annulled with a view to a new trial, and if not, if the old sentence still applies, is this not an infringement of the rule of* ne bis in idem

"The Review Board's decision of 30 November 2000, allowing Mr Hakkar's application for review of the sentence passed on him by the Yonne Assize Court does not, *ipso facto*, set that sentence aside. In fact, the judgment given by the new assize court, to which the Review Board has referred the case, will merely replace that given by the Yonne Assize Court, and a single sentence will then be executed, if appropriate.

Otherwise, execution of the sentence passed in the criminal judgment which is under review may simply be suspended, under Article 626-5 of the Code of Criminal Procedure.

The Review Board actually availed itself of this possibility in its decision of 30 November 2000, the operative part of which reads:

'For these reasons: Allows the application for review of the judgment given by the Yonne Assize Court on 8 December 1989, sentencing A. Hakkar to life imprisonment, with a period of 18 years' unconditional imprisonment.

Refers the case to the Hauts-de-Seine Assize Court.

Orders that execution of the sentence of life imprisonment be suspended […]'."

- *whether it is true that his case before a civil court asking for Mr Hakkar's release on the ground that his continuing imprisonment is unlawful, considering that he has not had a fair trial, has been stopped by the Préfet of Ile-de-France who brought the case before the Tribunal des conflits in April 2000, and that no decision has been taken by the Tribunal des conflits one-and-a-half years later*

"In April 2000 Mr Hakkar lodged an urgent application with the President of the Paris Regional Court, principally requesting that his imprisonment, which he termed an illegal intrusion on his liberty, be terminated.

On 17 April 2000, the Préfet of the Ile de France Region lodged an objection to jurisdiction, which was dismissed by decision of the President of the Regional Court, dated 21 April 2000.

The Préfet then decided to raise the question of jurisdiction formally on 9 May 2000. However, since this issue had not been examined within the statutory time-limit, the judicial proceedings were resumed, in accordance with Article 7 of the Order of 12 March 1831.

These proceedings ended with a finding by the President of the Paris Regional Court that he lacked jurisdiction, as the Act of 15 June 2000, establishing the Criminal

Judgments Review Board, had been passed since the decision of 21 April 2000. The Board had suspended execution of the sentence passed on Mr Hakkar, and this meant that he could no longer claim that the state had been guilty of any failure to act, constituting illegal interference with his liberty.

No appeal had been lodged against this decision by 25 January 2002."

- *whether it is true that Mr Hakkar is now being held on the ground of* evasion par bris de prison *committed respectively in 1988 and 1992, for which he was condemned to one-and-a-half and eight years' imprisonment, and that this sentence is now being executed on top of the 18 years he has already served, and if so, is this in the special case of Mr Hakkar compatible with reasonable principles of justice*

"As mentioned above, in addition to the offences for which he was sentenced to life imprisonment, Mr Hakkar was sentenced for several other offences, including escape.

Under Article 434-1 of the Criminal Code, sentences imposed for escape are consecutive, and may not be served concurrently with those which the escaped prisoner was serving, or those imposed for the offence which led to his imprisonment.

In this instance, the Review Board did indeed suspend execution of the sentence of life imprisonment, but, under Article 626-5 of the Code of Criminal Procedure, it could only suspend execution of the sentence passed in violation of the European Convention on Human Rights. This being so, Mr Hakkar's application to the Board, asking it to suspend execution of the sentence of imprisonment passed by the Paris Appeal Court on 27 February 1992, was inadmissible.

Mr Hakkar, who disputed the enforcement of these non-concurrent sentences, applied to both the judge for summary applications of Paris Regional Court and the 10th criminal chamber of Paris Appeal Court on points arising on the execution of the judgment.

The summary application procedure resulted in a decision that the court was not competent on 17 December 2001. The judge for summary applications pointed out that the Criminal review board established by the Law of 15 June 2000 had suspended the execution of Mr Hakkar's sentence and ruled that the latter could therefore no longer claim a failing of the State constituting illegal action by the authorities.

The 10th criminal chamber of Paris Appeal Court rejected Mr Hakkar's application on 22 March this year, on grounds that the sentences passed for escape had been correctly enforced on 30 November 2000. It pointed out that the Criminal review board decision suspended execution of the penal judgment referred to it but had no effect on the enforceability of the other two sentences, which were final, could not be served concurrently owing to the nature of the acts punished and were not barred by limitation owing to committal and the execution of another sentence or of a provisional detention measure.

That is why the completion date for execution of the sentences passed on Mr Hakkar is currently set for 28 March 2010, taking account of the sentence reductions accrued as of 30 November 2001."

- *whether it is true that Mr Hakkar is being kept in solitary confinement*

"Since 27 September 2000, Mr Hakkar has been held at La Santé prison in Paris, to which he was transferred when he applied to have his sentence reviewed.

On 30 November 2000 he was placed in solitary confinement for security reasons. The reasons given for this decision, and contested by Mr Hakkar, were the following: 'Risks of physical violence against staff, in view of threats voiced on several occasions, if the judicial decision on review did not suit you. This measure is necessary to protect staff and avert the danger of escape'.

Solitary confinement was extended for successive three-month periods from 28 February 2001, for the same reasons which had led to this decision in the first place.

However, it should be emphasised that, since 28 May 2001, solitary confinement has been extended because Mr Hakkar himself refuses to return to a normal cell.

Nonetheless, Mr Hakkar is entitled to have visitors. Passes have been issued to several visitors. His sister, for example, visits him every two months.

Additional comment:

Mr Hakkar's own conduct is responsible for the fact that the Hauts-de-Seine Assize Court has not yet retried him. He in fact lodged a complaint, claiming damages, with the senior investigating judge in Auxerre, alleging that some of the evidence in the very file which that court would have to reconsider had been forged. On 19 June 2001, the judge in question formally refused to investigate his complaint. Mr Hakkar's appeal against this decision was dismissed by the Paris Appeal Court on 10 February. However, Mr Hakkar has now appealed this second decision to the Court of Cassation, and so the retrial will be delayed until this appeal has been decided.

On 23 May this year the Court of Cassation ruled that the appeal to have the judgment set aside was inadmissible.

In order to ensure that justice is properly administered, and to forestall any objection when the Assize Court is considering the facts, the Principal State Prosecutor at the Versailles Appeal Court has decided not to fix a date for the hearing until Mr Hakkar's various appeals had been decided.

This date can now be fixed: Mr Hakkar's case should be raised during the assizes session in November."

Death penalty

Assembly Recommendation 1522 (2001) on the abolition of the death penalty in Council of Europe observer states. Committee of Ministers' reply, 13 June 2002

Before adopting its reply, the Committee of Ministers held on 20 March 2002 an exchange of views with Mrs Renate Wohlwend, Rapporteur for the recommendation. Participants in this exchange of views also included representatives of observer states, *viz* the Holy See, Japan, Mexico and the United States of America.

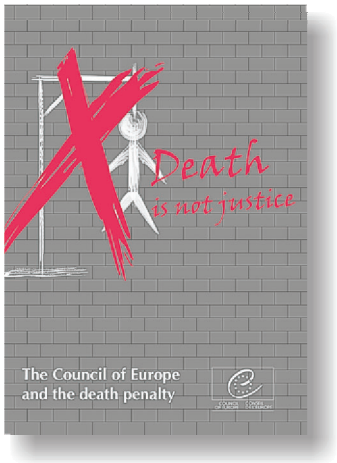
The Ministers remind the Assembly that, in the criteria for the granting of observer status with the Council of Europe which it adopted on 7 July 1999, an additional requirement

has been formulated to the effect that such states should "share Council of Europe values, as reaffirmed in particular in the Final Declaration of the Strasbourg Summit (10-11 October 1997)". This criterion refers, *inter alia*, to the appeal for the universal abolition of the death penalty which was made in that Final Declaration. The Committee shares the Assembly's view that it is regrettable that both Japan and the USA still have recourse to the death penalty.

The Committee of Ministers notes that in both countries there is a growing public debate on the continued use of the death penalty.

It recounts the various ways in which the Council of Europe contributes in various ways to promoting awareness about issues surrounding the death penalty citing in particular the booklet "Death is not justice", which has been translated into several languages, including Japanese.

Death is not justice – booklet published by the Directorate General of Human Rights



Minorities

Assembly Recommendation 1492 (2001) on the rights of national minorities. Committee of Ministers' reply, 13 June 2002

Extracts from the reply

"With regard to the proposal for an additional protocol to the European Convention on Human Rights concerning the rights of national minorities, which would include the definition of national minority contained in Assembly Recommendation 1201 (1993), the Committee of Ministers considers that it is somewhat premature to reopen the debate on this project. The Committee of Ministers would stress in this connection that, when Protocol No. 12 to the European Convention on Human Rights comes into force, any discrimination against a member of a national minority, including discrimination based on association with such a minority, will be covered by the general prohibition on discrimination.

With regard to the Assembly's recommendation that an additional protocol be prepared to the Framework Convention for the Protection of National Minorities, giving the European Court of Human Rights or a general judicial authority of the Council of Europe the power to submit advisory opinions on the interpretation of the Framework Convention, the Committee of Ministers refers, on the substance of the issue, to the negative view of the CDDH, to the opinion of the Advisory Committee on the Framework Convention, stating that such an additional protocol would be premature, and to the conclusion of the European Court … according to which it 'is in principle willing to assume an interpretative role in the field of minority protection', if such a protocol were to be established. For the reasons stated in these opinions, the Committee of Ministers does not consider it appropriate to give the Court new powers by means of an additional protocol to the Framework Convention. It does, on the other hand, consider it necessary to consolidate the Framework Convention mechanism."

Bioethics

Assembly Recommendation 1399 (1999) on xenotransplantation. Committee of Ministers' reply, 20 March 2002

The Committee of Ministers considered the progress of the activities of the Working Party on Xenotransplantation (CDBI/CDSP-XENO).

It notes that the drafting of guidelines for member states relating to xenotransplantation is tending towards the preparation of a draft recommendation, accompanied by an explanatory report, and wishes to inform the Parliamentary Assembly that the completion of this draft legal instrument necessitates an extension of the terms of reference of the CDBI/CDSP-XENO to 31 December 2002.

Assembly Recommendation 1468 (2000) on biotechnologies. Committee of Ministers' reply, 10 April 2002

The Committee of Ministers fears that it may be premature to state that the ultimate goal of this activity is a binding international convention, particularly on the world level. It believes rather that the Assembly's idea of an open, consultative forum on biotechnologies requires further examination. Taking into account the fact that fostering dialogue would be the objective of such a forum and also the Parliamentary Assembly's experience in organising similar events, the Assembly could envisage taking responsibility for its organisation.

Assembly Recommendation 1512 (2001) on protection of the human genome by the Council of Europe. Committee of Ministers' reply, 13 June 2002

The Committee of Ministers will take into account in its future work programme the Assembly's suggestion of drawing up guidelines for national decision-making on the introduction of testing and screening programmes from the perspective of health benefit.

It takes due note of the Parliamentary Assembly's invitation to set up at the European level a body or authority to fulfil on a permanent basis the task of monitoring the development of the Human Genome Project research process. But emphasises the need to avoid any duplication of existing activities and considers that the creation of a Euroforum in this field could duplicate efforts carried out at the European level.

It is necessary to ensure the widest possible involvement by citizens in sharing knowledge about the human genome, and in participating in discussions about the beneficial effects and risks associated with it.

The Committee of Ministers attaches great importance to the signature, ratification and implementation of the Convention on Human Rights and Biomedicine by as many member states as possible, and assures the Assembly that it is working towards that goal.

Dignity of the terminally ill and the dying

Assembly Recommendation 1418 (1999) on the protection of the human rights and dignity of the terminally ill and the dying. Committee of Ministers' reply, 26 March 2002

In its reply, the Committee of Ministers restricts itself to the one incontestable area of Council of Europe competence: human rights protection under the European Convention on Human Rights and the case law of the European Court of Human Rights.

Since, as yet, there is no case law of the Court which could provide precise answers to all the questions raised in the recommendation, the Committee prefers to limit itself to the following points.

"4. First, under Article 1 of the Convention, the High Contracting Parties undertake to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention. This is a binding obligation for all Parties, irrespective of any expression of will by the person concerned in this respect. Therefore, in the case of patients who are entirely incapable of self-determination, the Court has pointed out that they nevertheless remain under the protection of the Convention.

5. This must be borne in mind when considering the 'right of the terminally ill or the dying to self-determination', referred to notably in paragraph 9 (*b*) of the Recommendation. The Committee of Ministers therefore welcomes in this respect paragraph 9 (*c*) of the Assembly Recommendation, to 'encourage the member states of the Council of Europe to respect and protect the dignity of terminally ill or dying persons in all respects … by upholding the prohibition against intentionally taking the life of terminally ill or dying persons, while:

i. recognising that the right to life, especially with regard to a terminally ill or dying person, is guaranteed by the member states, in accordance with Article 2 of the European Convention on Human Rights which states that "no one shall be deprived of his life intentionally";

ii. recognising that a terminally ill or dying person's wish to die never constitutes any legal claim to die at the hand of another person;

iii. recognising that a terminally ill or dying person's wish to die cannot of itself constitute a legal justification to carry out actions intended to bring about death.'

6. There can be no derogations from the right to life other than those mentioned under Article 2 of the Convention. Apart from these cases, no one may be intentionally deprived of life, as the Assembly notes in paragraph 9 (*c*) (i). The Court has not, however, yet had occasion to rule on the relevance of Article 2 to the proposals set out in paragraph 9 (c) (ii) and (iii).

7. As regards the protection of human dignity afforded by Article 3 ('no one shall be subjected to torture or to inhuman or degrading treatment or punishment'), its requirements permit of no derogation. It is true that the Court stated that 'as a general rule, a measure which is a therapeutic necessity cannot be regarded as inhuman or degrading', but it also noted that the assessment of an act as ill-treatment falling within the scope of Article 3 'depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc.' Moreover, Article 3 includes a number of obligations for the state: 'Children and other vulnerable individuals, in particular, are entitled to state protection, in the form of effective deterrence, against such serious breaches of personal integrity.'

8. The right to respect for private and family life, as guaranteed by Article 8, would become relevant in some instances, but there are only very rare examples of case law from the Strasbourg organs that could be linked to questions relating to the dignity of the sick within the scope of such a provision.

9. The dual objective of alleviating suffering whilst avoiding such violations may give rise to a wide range of national measures. The recommendation draws attention to those concerning palliative care (see notably paragraph 9 (*a*)). Although definitions of palliative care do exist, the recommendation does not define these terms any more than it gives a definition of the concept of 'pain management' mentioned in paragraph 7 (i) – rightly in the Committee's view, as it does not seem possible to give a uniform European definition of such very broad concepts. The Committee refers in this context to the work being carried out on palliative care by the European Health Committee.

10. It follows, in the Committee of Ministers' view, that several of the proposals made by the Parliamentary Assembly to member states, in particular a greater commitment on their part to relieving human suffering, can help protect human rights and the dignity of the terminally ill and the dying, provided that the articles of the European Convention on Human Rights mentioned in this reply are respected.

11. However, in the absence of precise case law, the question of 'human rights of the terminally ill and the dying', seen from the angle of the Convention, gives rise to a series of other very complex questions of interpretation, such as:

– the question of interplay and possible conflict between the different relevant rights and freedoms

and that of the margin of appreciation of the States Parties in finding solutions aiming to reconcile these rights and freedoms;

– the question of the nature and the scope of positive obligations incumbent upon States Parties and which are linked to the effective protection of rights and freedoms provided by the Convention;

– the question of whether the relevant provisions of the Convention must be interpreted as also guaranteeing 'negative rights', as the Court has ruled for certain Articles of the Convention, as well as the question of whether an individual can renounce the exercise of certain rights and freedoms in this context (and, if that is the case, in to what extent and under which conditions).

12. With regard to legislation and practices in member states concerning the problems addressed in the recommendation, the Steering Committee on Bioethics is working on a report, in accordance with the terms of reference assigned to it by the Committee of Ministers. This report, due to be finalised in the course of 2002, will be forwarded to the Assembly in due course. The CDDH, for its part, will follow the development of these issues attentively.

13. In addition, concerning issues related to palliative care, to which the Assembly devoted an important section of its recommendation, the European Health Committee (CDSP) has prepared a study of the situation in many European countries, taking particular account of the contribution made by the Eastern and Central European Task Force on Palliative Care. The CDSP has undertaken to prepare a draft recommendation on these issues. The Committee of Ministers will be apprised of the results of this work in late 2002.

14. The Committee of Ministers wishes at this stage to inform the Assembly that the proposals contained in its Recommendation 1418 (1999) have broadly contributed to the deliberations carried out in this field. Furthermore, the Committee of Ministers welcomes the contacts established between the chairpersons of the competent sub-committee of the Assembly and the committee of experts on the organisation of palliative care."

Danish Centre for Human Rights

Written question No. 408 by Mr Jurgens on the closing down of the Danish Centre for Human Rights. Committee of Ministers' reply, 6 March 2002

According to the Danish authorities, the Centre is not to be closed down, but integrated, under the name *Institute for Human Rights*, into the new Danish Centre for International Studies and Human Rights (DCISHR).

On this basis, the Committee of Ministers is confident that an independent and substantial function of promotion and protection of human rights will be preserved in Denmark.

110th Session of the Committee of Ministers, 3 May 2002

The Council of Europe confirms its commitment to international action against terrorism and stresses the importance of regional co-operation in consolidating democratic stability in greater Europe.

At their 110th Session (Vilnius, 3 May 2002), under the chairmanship of Antanas Valionis, Minister for Foreign Affairs of Lithuania, the Ministers concentrated their discussion on the following subjects:

I. International action against terrorism – the contribution of the Council of Europe

The Ministers assessed progress in the work carried out with regard to the three cornerstones which they had defined for the Council of Europe contribution to international action against terrorism: intensifying legal co-operation to combat terrorism, safeguarding fundamental values and investing in democracy. On this basis, they agreed on a number of guidelines for future action.

From the outset, the Ministers reiterated that states had an obligation to protect their populations against all forms of terrorism. The main contribution of the Organisation is to strengthen the legal basis of counter-terrorist measures, while fully respecting human rights and complying with the demands of democracy and the rule of law, as well as to help eradicate the roots of terrorism by fighting discrimination, intolerance and extremism and promoting multicultural and inter-religious dialogue.

The Ministers took note with satisfaction of the first report of the Multidisciplinary Group on international action against Terrorism (GMT) set up last November. They expressed their political will that efforts be sustained in the areas identified by the GMT, including the strengthening of international cooperation, through the updating of the 1977 European Convention on the suppression of terrorism.

The Ministers reaffirmed their support for the Organisation's efforts to combat terrorism, in particular through examining the possibility of setting up a specific follow-up mechanism to the Council of Europe's action in this field.

Accordingly, they instructed the GMT to prepare a draft protocol to the European Convention on the suppression of terrorism, and noted that a new report will be submitted to them for their next session.

The Ministers welcomed the work on draft guidelines on human rights and the fight against terrorism, which is being carried out by the Steering Committee on Human Rights (CDDH). These are to be finalised by the latter in June 2002 and will lay down the principles to be observed by the member states and all states intending to respect human rights and the rule of law in the struggle against terrorism.

The Ministers recalled that the general principle that underlies these guidelines is that respect for human rights is not an obstacle to the fight against terrorism. The obligation for states to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, in particular the right to life, requires them to take efficient measures to

fight against terrorism. These measures must however be reasonable and proportionate, and require striking a balance between the obligation to take protective measures against terrorism and the obligation to protect and defend human rights and fundamental freedoms.

The Ministers noted the additional contribution made in the field of prevention and eliminating the causes of terrorism. This included the Council of Europe's work to foster greater social cohesion and pay more attention to cultural and religious diversity, with full respect on all sides for the fundamental values of democracies. The Ministers called for efforts to develop pilot schemes aimed at multicultural and inter-religious dialogue at different levels (North-South, transfrontier, regional and local). They confirmed their interest in programmes geared to better control of migratory flows and integration of migrants, whose fundamental rights must be safeguarded.

The Ministers also welcomed the concerted action carried out – parallel to intergovernmental work – in the field of interparliamentary co-operation. In this respect, particular reference was made to the recent Interparliamentary Forum in St Petersburg, organised on the joint initiative of the Interparliamentary Assembly of Member Nations of the Commonwealth of Independent States and the Parliamentary Assembly of the Council of Europe, in co-operation with the Parliamentary Assembly of the OSCE and the European Parliament. The Ministers stressed that the support of populations, through their elected representatives, is indispensable.

Lastly, the Ministers expressed their firm belief that the fight against terrorism can be well served by strengthening regional cooperation in this respect.

II. Regional co-operation: its impact on stability and democratic reforms in Europe

The Ministers examined ways and means of strengthening co-operation between the Council of Europe and regional mechanisms with a view to taking greater advantage of their capabilities in enhancing the ideals and standards of the Council of Europe through cooperation within their own structures.

At the close of the discussion, the Ministers adopted the **Vilnius Declaration on "Regional co-operation and the consolidation of democratic stability in the greater Europe"**. The Declaration emphasises the role regional co-operation can play in the building of a greater Europe without dividing lines.

The Ministers also agreed on a number of areas in which closer co-operation and synergy between the Council of Europe and regional mechanisms could be particularly fruitful. They invited the Secretary General to convene a working meeting of these bodies in Strasbourg, as a follow-up to the session.

They encouraged initiatives aiming at developing regional co-operation in those parts of Europe where such co-operation does not yet exist and could be particularly useful in providing for constructive approaches among the countries concerned. In this context, they called on for the removal of existing obstacles to such cooperation.

The Ministers decided to transmit this Communiqué and the Vilnius Declaration to the United Nations and the OSCE.

Parliamentary Assembly

"The Parliamentary Assembly is a unique institution, a gathering of parliamentarians, from more than forty countries, of all political persuasions, responsible not to governments, but to our own consensual concept of what is right to do" (Lord Russell-Johnston, former President of the Assembly).

Human rights situation in member and non-member states

Refugees

Recommendation 1563 (2002) on the humanitarian situation of the displaced Kurdish population in Turkey – 29 May 2002

The Assembly noted with satisfaction the positive developments in the humanitarian situation in south-eastern Turkey and northern Iraq, particularly the considerable decrease in violence and tension over the last two years.

However, it strongly condemned the violence and terrorism perpetrated by the Kurdistan Workers' Party (PKK), which has contributed to the displacement of the population, and urges those responsible to cease all violence. At the same time it expressed its deep concern at the reports of fresh village and hamlet evacuations by the Turkish security forces.

In this context, the Assembly welcomed the South-eastern Anatolia Project, aimed at the integrated economic development of the region, and recommended that assistance in the reconstruction of villages be given high priority, that the state of emergency in force in the four remaining provinces be lifted as soon as possible and that international humanitarian organisations be granted access to the region.

Texts adopted by the Assembly

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.

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, draft conventions, implementation of the Social Charter.

Orders are generally instructions from the Assembly to one or more of its committees.

Recommendation 1570 (2002) on refugees and displaced persons in Armenia, Azerbaijan and Georgia – 27 June 2002

The Assembly expressed concern over the fact that over one million people remain displaced in the South Caucasus as a result of armed conflicts in the region.

It therefore welcomed the efforts of Georgia and the Georgian refugees to find a peaceful solution to the conflict in Abkhazia and urged the government to continue peaceful negotiations with the parties concerned.

In view of the dire economic situation in the three republics, the Assembly urged member states to continue humanitarian aid and called upon the three republics concerned to continue working towards durable solutions to the problems of armed conflict and of displaced persons.

Recommendation 1569 (2002) on refugees and internally displaced persons in the Federal Republic of Yugoslavia – 27 June 2002

The Assembly, in view of the ongoing accession procedure of the Federal Republic of Yugoslavia to the Council of Europe, drew attention to the question of refugees and internally displaced persons (IDPs) in the country. There are presently over half a million refugees and IDPs in Serbia, Montenegro and Kosovo.

The Assembly expressed its concern over plans to decrease and phase out crucial international assistance without concrete projects to replace it by international development aid. It also noted of the ongoing political process to determine the future status of the present Federal Republic of Yugoslavia, but observed that the uncertainty concerning the final outcome had in some respects had a negative impact on this situation and on any action undertaken to accomplish durable solutions.

It expressed particular concern regarding the lack of co-operation between the political entities of the Federal Republic of Yugoslavia, the absence of a long-term strategy in Montenegro, the passive attitude of the Montenegrin authorities and their reluctance to face up to the problem.

On the other hand, the Assembly noted with satisfaction the progress in international co-operation and the elaboration by the Serbian authorities, in co-operation with international organisations, of the National Strategy for Resolving the Problems of Refugees, Expellees and Displaced Persons.

The Assembly urged member states to encourage economic involvement and investments in the Federal Republic of Yugoslavia, to ensure the continued develop-

ment of a comprehensive economic strategy in the framework of the Stability Pact for South eastern Europe, to contribute to projects in the framework of the Serbian National Strategy and to continue providing humanitarian assistance.

Children of war in South eastern Europe

Recommendation 1561 (2002) on social measures for children of war in South eastern Europe – 29 May 2002

The decade-long conflict on the territory of the former Yugoslavia has severely affected children, leaving up to 20,000 dead and many more without one or both parents. A regional refugee problem of massive proportions continues with more than 2 million refugees and internally displaced persons. The return and integration of displaced families continue to be impeded by limited financial resources, administrative procedures and social problems.

The Assembly therefore recommended that support be given to the activities undertaken by the Governments of Bosnia and Herzegovina, Croatia, "the former Yugoslav Republic of Macedonia" and the Federal Republic of Yugoslavia in order to give the rights of the child political priority and to fully implement the Convention on the Rights of the Child, set up support systems, rationalise the welfare system and establish clear national legislation defining the prerogatives and responsibilities of NGOs and mechanisms of co-operation.

Women's rights

Joint statement on the situation of women in Afghanistan – 8 March 2002

In a joint statement made with the Committee on Women's Rights and Equal Opportunities of the European Parliament, the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly addressed the problems of women and girls in Afghanistan.

They expressed grave concern over the massive and systematic violations of their most basic human rights and over the fact that these violations have been committed in total impunity. The Committees urged the international community to insist on the accountability for the human rights abuses committed during the civil war and under the Taliban regime.

The Committees proposed the creation of a Special Observers Group to focus on the policies and activities of the Afghan Government in terms of women's fundamental rights and to ensure that international aid and rehabilitation policies and programmes take due account of gender interests. They called upon the transitional government to ensure life security, elementary means of existence and political representation for women and young girls and to further provide them with free access to education, access to the media and the possibility to publicly express their views on society.

Recommendation 1555 (2002) on the image of women in the media – 24 April 2002

The Assembly found that the image of women in the media all too frequently remains a negative one, and continues to be "stereotyped and sexist", largely as a result of the inadequate training of journalists and media managers and the small numbers of women holding decision-making posts.

It therefore called on the governments of member states to adopt and implement a policy against sexist, stereotyped images and portrayals of women in the media and to accompany legislative change with financial support for new equality projects in the media, encouraging advertisers to increase self-regulation through their own system of professional ethics and using positive discrimination measures to guarantee a balance between women and men at every level of decision-making.

Resolution 1293 (2002) on the situation of women in the Maghreb – 27 June 2002

Despite positive developments in the countries of the Maghreb, women are still trapped in a "legal ghetto" that violates the international conventions ratified by these countries. The societies of the Maghreb are still a mixture of archaic habits and customs and modernity, where women are still dependent upon, and sometimes dominated by, men.

The Assembly expressed its deep concern over the illiteracy rate among women, the insufficient schooling of young women, the practice of repudiation and the fact that the small percentage of women on the labour market is the result of discrimination on the grounds of sex. It considered that women must be able to control their own identities, independently of religions, traditions and cultures and underlined that immigrants from the Maghreb must be informed of the existing laws in their host country prohibiting discrimination against women.

It therefore called upon member states to take steps to grant individual visas and residence permits for women and to raise media awareness so that immigrants are subject to less negative publicity.

Monitoring

Resolution 1277 (2002) and Recommendation 1553 (2002) on honouring of obligations and commitments by the Russian Federation – 23 April 2002

The Assembly welcomed the undoubted progress achieved so far towards the consolidation of the rule of law and democracy in the Russian Federation, but decided to continue its monitoring procedure until further action is taken on issues still outstanding.

These issues addressed in the Assembly's resolution include full implementation of freedom of expression, movement and religion, continuing reform of the Prosecutor's Office and the Federal Security Service, lifting of reservations to the European Convention on Human Rights, improvement of conditions of detention in Russian prisons and putting an end to the ill-treatment of conscripts. The resolution also calls for the abolition of the death penalty and

strongly criticises the recent parliamentary initiative to lift the present moratorium on executions based on a presidential decree.

The Assembly urged the Russian authorities to settle by peaceful means the conflict in Chechnya, to conduct a proper investigation into all cases of human rights violations and abuse of power in Chechnya, and to bring to justice those responsible.

In its recommendation, the Assembly welcomed the progress made by the Russian authorities, notably with regard to the signature and ratification of Council of Europe conventions, the reform of the judicial system, the transfer of responsibility for the penitentiary system from the Ministry of Interior to the Ministry of Justice, and the adoption of the Law on the Office of the Commissioner of Human Rights.

However, it urged the Russian authorities to replace the current moratorium on executions with a *de jure* abolition of the death penalty and recommended stepping up assistance programs to the Russian authorities in their efforts to secure fundamental rights and liberties, particularly as regards freedom of expression and the media, and the application of the rule of law throughout the country.

Resolution 1280 (2002) and Recommendation 1554 (2002) on the functioning of democratic institutions in Moldova – 24 April 2002

The Parliamentary Assembly expressed grave concern over the political climate in Moldova.

It recalled that the political opposition has rights which must be consolidated and honoured and that the lifting of parliamentary immunity is of rather doubtful propriety in a democracy. Noting the absence of real dialogue between the ruling party and the political opposition, the Assembly recommended the Moldovan political forces agree on a compromise based on a moratorium on sanctions against parliamentarians, cessation of demonstrations in the streets, revision of radio and television legislation and revision of Parliament's rules of procedure in order to widen the opposition's rights.

Chechnya

Meeting of the Joint Working Group on Chechnya – 20 March 2002

The Joint Working Group on Chechnya of the Parliamentary Assembly and Russian State Duma met in Moscow on Wednesday 20 March 2002 to discuss the human rights situation in the region and the state of progress of a political solution to the conflict.

Three priority aims were assisting with finding a political solution to the conflict, promoting respect for human rights in the region and improving the humanitarian situation.

Religion and society

Resolution 1278 (2002) on Russia's law on religion – 23 April 2002

The Assembly, addressing the problems arising from the 1997 law on religions, acknowledged that many of the original criticisms had been dealt with by the Russian Government and the Constitutional Court. However, it found that further action needed to be taken to ensure that the law was applied in a uniform manner throughout the country, ending unjustified regional and local discrimination against certain religious communities, including the Salvation Army and Jehovah's witnesses in Moscow, and local officials' preferential treatment of the Russian Orthodox Church.

Recommendation 1556 (2002) on religion and change in central and eastern Europe – 24 April 2002

On the question of religion and change in central and eastern Europe, the Parliamentary Assembly asked member states to guarantee the freedom of religious minorities, with special emphasis on protecting them against discrimination and persecution. It considered that all religious groups should be granted the status of legal entities, provided their activity does not violate human rights or international law.

It also advocated a series of measures aimed at encouraging a better understanding between Christian – Western and Eastern – Jewish and Islamic cultures, including the development of cultural exchanges and routes, and of school curricula including information on Europe's main religious cultures and practices.

New technologies

Assembly report on data networks at the service of humanity – 23 April 2002

The Parliamentary Assembly called for the development of a "European model" for the use of new information and communication technologies which puts technical progress at the service of social cohesion.

The internet, mobile phones, data networks, e-commerce and other elements of the "new economy" offer great rewards, including better education, enriched culture, greater democracy and more jobs. But there are risks too, such as cyber-crime and the rise of information "haves" and "have nots".

The Assembly unanimously called for more IT training, a review of intellectual and artistic property rights, stronger laws against cyber-crime and greater help for developing countries to help them overcome the "digital divide".

Abolition of the death penalty

Seminar in Japan – 27-28 May 2002

High representatives of the Japanese authorities took part in a seminar on the abolition of the death penalty in Council of Europe observer states.

Parliamentary dialogue with Council of Europe observer states which continue to apply the death penalty (Japan and the United States) is based on the Assembly's Resolution 1253, in which the two countries were asked to institute a moratorium on executions and to improve conditions on "death row" as first steps on the path to full abolition of the death penalty.

The Assembly resolved to call into question these countries' observer status should no significant progress in the implementation of the resolution be made by 1 January 2003.

Asylum seekers

Parliamentary conference on the treatment of asylum seekers arriving by sea – 30-31 May 2002

The response of European governments to the huge increase in asylum seekers arriving at European seaports and coastal areas was the theme of a conference held in the southern Italian town of Lecce in May 2002.

The conference brought together parliamentarians, academics, representatives of Italy's Interior Ministry, UNHCR, the Italian Refugee Council and Amnesty International, as well as local authorities, police and church leaders from Lecce and the surrounding region of Apulia to discuss reception conditions for asylum seekers, their access to high-quality legal advice, and the specific problems of stowaways and arrivals at major seaports.

Situation in the Middle East

Resolution 1281 (2002) and Resolution 1294 (2002) on the situation in the Middle East – 25 April and 27 June 2002

The Parliamentary Assembly expressed its deep concern over the new aggravation in the conflict between Israelis and Palestinians. It urged the two parties to stop immediately all violence and hostilities and resume the peace process.

It reiterated its readiness to contribute to re-establishing contacts and offered parliamentarians from the Knesset and the Palestinian Legislative Council a forum for a structured dialogue.

The Assembly considered that the balance of its relations with the Israelis and Palestinians should be redressed and declared its readiness to examine the possibility of granting Observer status to the Palestinian Legislative Council.

Assembly visits

Pre-electoral mission to Ukraine – 27 February-2 March 2002

A pre-electoral delegation of the Parliamentary Assembly visited Ukraine prior to elections held on 31 March 2002.

It regretted that the new electoral law was not enforced and expressed great alarm over repeated allegations of abuse of power through the improper use of government resources. Other causes for concern were a pronounced imbalance in the media exposure of various blocs and parties and allegations of administrative harassment and outright intimidation. Most importantly, the delegation deplored the complete lack of political dialogue, the high degree of tension and mistrust among political forces, and a general lack of confidence in the democratic process.

The delegation brought its observations to the attention of the Central Electoral Commission and called upon the political forces in the country to drop mutual recriminations and to engage in a constructive political dialogue to make the vote a true reflection of a democratically expressed will of the Ukrainian people.

Assembly delegation visit to Belarus – 10-12 June 2002

The Ad Hoc Committee on Belarus of the Parliamentary Assembly visited Minsk in June 2002.

The delegation welcomed the efforts of the Parliament to open a public discussion on the abolition of the death penalty. It stressed that parliamentarians must lead public opinion on this issue and encouraged the Parliament to call for a moratorium on the death penalty.

The delegation expressed serious concerns regarding restrictions of the freedom of media and of the freedom of association, cases of arrest and harassment of the opposition and some NGOs and the current difficulties in relations between Belarus and the OSCE. It stressed that these developments hinder the integration of Belarus into European structures and urged the authorities to co-operate with the OSCE in order to find a mutually acceptable solution as soon as possible.

Democracy and legal development

European institutions

Resolution 1290 (2002) and Recommendation 1568 (2002) on the future co-operation between European institutions – 26 June 2002

The Assembly considered that, at this turning point in the history of Europe, the Council of Europe must reaffirm its unique position among the continent's institutions, based upon its principal assets: the European Convention and Court

of Human Rights. These should be the basis for new forms of co-operation with the enlarging European Union.

In the Assembly's view, the objective of strengthening the safeguarding human rights within Europe as a whole can only be achieved through the accession of the European Union/European Community to the European Convention on Human Rights, thereby creating a single legal mechanism applying equally to all state and other authorities in Europe.

The Assembly called upon the European Union and on the applicant states to consider the Council of Europe as an active partner in the European Union's pre-accession strategy and considered that institutional co-operation on all levels should be improved to avoid double standards, parallel activities and the exclusion of non-EU member states from the European project.

The Assembly therefore recommended that a third summit of heads of state and government be held before the intergovernmental conference of the European Union, with a view to redefining the Council of Europe's relations with other European institutions.

Minorities

Recommendation 1557 (2002) on the legal situation of Roma in Europe – 25 April 2002

The Assembly condemned the continuing widespread discrimination against Europe's Roma community and called for them to have a stronger voice in determining their future. It demanded that all European governments offer Roma the legal protection of ethnic or national minority status and called for greater involvement of Roma in decision-making at all levels.

The Assembly also called for the creation of a "European Roma Consultative Forum", a Roma Solidarity Fund, a European Roma Ombudsman and a European Roma study centre, while reaffirming that Roma should accept the rules governing society as a whole, and suggested that they could – provided they have appropriate support from the state – be "more active in handling their own problems".

Asylum seekers

Recommendation 1552 (2002) and Order No. 580 (2002) on vocational training of young asylum seekers – 26 March 2002

Vocational education and training provide a unique opportunity for young asylum seekers to acquire new professional skills. Given the length of time it may take to process asylum applications, the Assembly observed that young asylum seekers should be given the opportunity to use this time for training and skills improvement.

The Assembly therefore expressed its belief that more attention should be given to the issue of vocational education and training for young asylum seekers in Council of Europe member states and called upon them to establish such programmes for young asylum seekers in co-operation with other international organisations, such as the European Union, the UN High Commissioner for Refugees and the International Labour Organisation.

In its Order No. 580 (2002), the Assembly recommended that an in-depth study be carried out on the matter.

Conventions

Opinion No. 235 (2002) on the draft convention on contact concerning children – 26 March 2002

The Assembly welcomed the timely drafting of a convention on contact concerning children. The draft convention aims at assisting children in maintaining regular contact with both their parents and with other people with whom they have family or other ties.

The Assembly appreciated the fact that the draft convention permits no reservations, but expressed regret that its wording allows states considerable margins of appreciation. In the Assembly's view, the convention could leave less to the determination of the domestic law of each state. It also considered that certain provisions could be extended to cover punitive and criminal sanctions in appropriate cases. It further suggested that greater consideration be given to the co-ordination of administrative and judicial authorities.

Children's rights

Recommendation 1551 (2002) on building a 21st century society with and for children – 26 March 2002

The Assembly saluted the Unicef initiative to hold a special session of the United Nations General Assembly devoted entirely to defining a world fit for children to live in, a concern it willingly shares and endorses.

The Assembly therefore invited the Committee of Ministers to adopt a legal instrument that is binding on the Organisation's member states and to assert increasingly the Council of Europe's role, as a champion of human rights, in defending and promoting the rights of the child.

Resolution 1291 (2002) on international abduction of children by one of their parents – 26 June 2002

The Assembly expressed concern over the growing number of abductions of children by one of their parents in couples of different nationalities and the difficulties encountered in tracing these children and ensuring their return.

It observed that the member states, united within the Council of Europe by their attachment to the same values, should overcome their legal, cultural and other differences, recognise the same concept of the best interests of the child and state that situations in which children are denied their rights cannot be allowed to continue.

The Assembly therefore urged member states to take steps to ratify the 1980 Hague Convention on the Civil Aspects of International Child Abduction and the various Council of Europe conventions on the rights of children, to

ameliorate the judicial procedures and structures concerned, facilitate access to court for victims and improve international co-operation in the matter.

Statements

Assembly President's statement on International Criminal Tribunals – 1 March 2002

The Parliamentary Assembly President declared that pressure from the United States administration to close down the two International Criminal Tribunals in The Hague and in Arusha is unacceptable, and represents political interference in a judicial process aimed at seeking justice for the hundreds of thousands of victims of the crimes committed in the former Yugoslavia and Rwanda. He further said that any decision regarding shared jurisdiction with national courts or the future International Criminal Court can only be made by the Tribunals themselves.

International Criminal Court: a landmark in human rights achievements – 11 April 2002

On the occasion of the 60th ratification of the Rome Statute establishing the International Criminal Court (ICC), the Parliamentary Assembly heralded this event as an historic accomplishment for humanity, making accountability for war crimes, genocide and crimes against humanity a reality on an international level.

The Statute entered into force on 1 July 2002, just under four years after its adoption.

Terrorism

Inter-parliamentary forum on combating terrorism – 27-28 March 2002

Meeting in St. Petersburg for a two-day Inter-parliamentary forum on combating terrorism, organised jointly by the Inter-Parliamentary Assembly of the Commonwealth of Independent States and the Parliamentary Assembly of the Council of Europe, participants affirmed that terrorist acts violate democratic values, the rule of law and human rights and that they cannot be justified on any political, religious, social or economic grounds. They also stressed that international action against terrorism should be based on close co-operation at global, regional and bilateral level, and that any use of force should be consistent with international law and carried out with the agreement of the United Nations Security Council.

Biannual conference on democracies facing terrorism: national strategies – 10-11 May 2002

Speakers and parliamentary presidents from across Europe met in the Croatian capital Zagreb in May for their bi-annual conference on the theme "Democracies facing terrorism: national strategies". The conference brought together well over fifty presidents of national parliaments and international parliamentary bodies with the aim of comparing national approaches in the fight against terrorism and consolidating the role to be played by parliaments.

The full version of the texts adopted by the Assembly is available on its Internet site.

Internet site: http://stars.coe.int/

European human rights institutes

These reports, presented in the language in which they were received, update the information contained in the supplement to Human rights information bulletin No. 54. A further supplement on the activities of European human rights institutes will be published early in 2003.

France

Centre de recherches et d'études sur les droits de l'homme et le droit humanitaire (CREDHO)

Faculté Jean Monnet
54, boulevard Desgranges
F-92330 Sceaux
tél. +33 (0)1 40 91 17 19
fax +33 (0)1 46 60 92 62
mél credho@credho.org
site http://www.credho.org

Activités

Le CREDHO, créé en 1990, fonctionne en réseau depuis 1995 avec deux composantes : le CREDHO-Paris Sud, dirigé par le professeur Paul Tavernier, et le CREDHO-Rouen, dirigé par le professeur Laurence Burgorgue-Larsen.

- Le CREDHO organise régulièrement des colloques sur les droits de l'Homme et le droit humanitaire, notamment sur la France et la Cour européenne des Droits de l'Homme dont les Actes sont publiés dans les *Cahiers du CREDHO* (7 numéros parus ; également disponibles sur le site du CREDHO). La septième session, portant sur la jurisprudence de l'an 2000, a eu lieu le 19 janvier 2001 et était présidée par M. Michele De Salvia, jurisconsulte à la Cour européenne des Droits de l'Homme. La huitième session (jurisprudence de l'an 2001) était présidée par M. Régis de Gouttes, premier avocat général à la Cour de cassation, avec la participation de M^me^ Françoise Tulkens, juge à la Cour européenne des Droits de l'Homme.
- Le CREDHO publie chaque année, au mois de décembre, un *Bulletin d'information du CREDHO* (11 numéros parus) contenant notamment une bibliographie des ouvrages, thèses et articles parus en français sur les droits de l'homme, les libertés publiques et le droit international humanitaire.
- Le CREDHO, dans le cadre d'un programme de recherches permanent, a publié, en novembre 2001, sur son site Internet, les premiers éléments d'une bibliographie critique sur *Islam et droits de l'homme*.
- Le CREDHO participe à un projet commun avec le Centre des droits de l'homme de Prétoria (Afrique du Sud), dirigé par le professeur Christof Heyns (3 vol. parus des Human Rights Law in Africa Series, aux éditions Kluwer).

Publications

- Paul Tavernier et Alice Yotopoulos-Marangopoulos (sous la direction de), *La Communauté académique à l'aube du troisième millénaire. Droits et responsabilités fondamentaux*, Bruxelles : Bruylant, 2000, 272 p.
- Paul Tavernier et Laurence Burgorgue-Larsen (sous la direction de), *Un siècle de droit international humanitaire. Centenaire des Conventions de La Haye. Cinquantenaire des conventions de Genève,* Bruxelles : Bruylant, 2001, VII + 262 p., coll. CREDHO n° 1.
- « Chronique de jurisprudence de la Cour européenne des droits de l'Homme. Année 2000 », *Journal du droit international,* 2000, pp. 91-148 ; 2001, pp. 161-232 ; 2002, pp. 243-318.
- « Chronique de jurisprudence européenne comparée », *Revue du droit public*, n° 4, 2000, pp. 1081-1151 ; n° 3, 2001, pp. 693-736.
- *Recueil juridique des droits de l'homme en Afrique*, sous la direction de Paul Tavernier (*Human Rights Law in Africa Series*, Christof Heyns et Paul Tavernier, editors), Bruxelles : Bruylant, 2002, sous presse.

Spain / Espagne

Pedro Arrupe Institute of Human Rights

Universidad de Deusto
Instituto de Derechos Humanos Pedro Arrupe
Apartado 1
Bilbao E-48080
Tel: +34 (944) 139 102
Fax: +34 (944) 139 282
E-mail: derechos.humanos@deusto.es
Site: http://www.relint.deusto.es/rel/ingles/ECTS/catabilbo/ins6.asp

Goals and strategic principles

The Pedro Arrupe Institute of Human Rights (IDHPA), is located in Bilbao, in the Basque Country, and is a part of

the University of Deusto. The Institute was created in 1997 as a response of the University to the social demand for critical reflection based on a culture of human rights and peace in a democratic society.

The Institute of Human Rights is a non-profit institution, whose goals are:

a. To transmit human knowledge and to extend the frontiers of knowledge in the area of human rights, by means of teaching, research, raising social awareness and direct action, from a critical and responsible attitude.
b. To serve society, by means of an open, academic contribution to the understanding, analysis and solution of its problems.
c. To work actively and responsibly on the challenges facing Basque society, promoting its language and culture, working for the peaceful and democratic solution to its political differences and stimulating social justice at its heart.
d. To train critical and competent persons who, from their respective university training, promote the implantation of a culture of human rights in the international community, with particular concern for the promotion of social justice in the world.
e. To make known the complex connections between human rights and Christian faith and other religious beliefs, making manifest their importance both for human rights and for the resolution of certain social conflicts.

The work of the Institute, in agreement with what was established in the Development of the Deusto University Project, will be governed by the following strategic principles:

· Ethical concern
· Interdisciplinarity
· Practical perspective
· Social integration
· Internationalisation.

Areas of work and programmes of action

The IDHPA has a series of priority areas of work based on the following subject areas:

· Protection of Human Rights
· International Humanitarian Assistance
· Right to Development
· Migration
· Rights of peoples and minorities
· Peace and resolution of conflicts
· Questions of gender.

The work in these thematic areas is constructed around four pillars or programmes of action that define the idiosyncracy of the Institute:

A. Programme of teaching: Aims to extend knowledge on topics related to human rights, train agents and experts capable of intervening in favour of human rights with technical professionalism and competence.
B. Programme of research: Aims to extend the analysis and knowledge of the human rights through projects of research that shed light on reflections on these matters; to make valid contributions to diverse sciences from the perspective of human rights.
C. Programme of dissemination – sensitisation: Aims to extend a culture of assumption and respect for human rights throughout Basque, Spanish and international society, to denounce social injustice and the violation of rights, to provoke serious and reflective social debate on political or social aspects from the perspective of human rights.
D. Programme of action – intervention: Through this the IDHPA tries to actively take part in the promotion and protection of human rights, both through direct action developed by the Institute itself, and through offering its technical services to other organisations, especially NGOs.

Appendix 1
Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances. Explanatory report.

The member states of the Council of Europe signatory hereto,

Convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;

Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Noting that Protocol No. 6 to the Convention, concerning the Abolition of the Death Penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;

Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

Article 1 – Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2 – Prohibition of derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 3 – Prohibition of reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

Article 4 – Territorial application

1. Any state may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2. Any state may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt by the Secretary General of such declaration.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 5 – Relationship to the Convention

As between the states Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 6 – Signature and ratification

This Protocol shall be open for signature by member states of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member state of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 7 – Entry into force

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member states of the Council of Europe have expressed their

consent to be bound by the Protocol in accordance with the provisions of Article 6.

2. In respect of any member state which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 8 – Depositary functions

The Secretary General of the Council of Europe shall notify all the member states of the Council of Europe of:

a. any signature;
b. the deposit of any instrument of ratification, acceptance or approval;
c. any date of entry into force of this Protocol in accordance with Articles 4 and 7;
d. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at …, this …,* in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member state of the Council of Europe.

Explanatory report

Introduction

1. The right to life, "an inalienable attribute of human beings" and "supreme value in the international hierarchy of human rights" is unanimously guaranteed in legally binding standards at universal and regional levels.
2. When these international standards guaranteeing the right to life were drawn up, exceptions were made for the execution of the death penalty when imposed by a court of law following a conviction of a crime for which this penalty was provided for by law (cf., for example, Article 2, paragraph 1, of the European Convention on Human Rights (hereinafter: "the Convention").
3. However, as illustrated below, there has since been an evolution in domestic and international law towards abolition of the death penalty, both in general and, more specifically, for acts committed in time of war.
4. At the European level, a landmark stage in this general process was the adoption of Protocol No. 6 to the Convention in 1982. This Protocol, which to date has been ratified by almost all States Parties to the Convention, was the first legally binding instrument in Europe – and in the world – which provided for the abolition of the death penalty in time of peace, neither derogations in emergency situations nor reservations being permitted. Nonetheless, under Article 2 of the said Protocol, "A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war". However, according to the same Article, this possibility was restricted to the application of the death penalty in instances laid down in the law and in accordance with its provisions.
5. Subsequently, the Parliamentary Assembly established a practice whereby it required from States wishing to become a member of the Council of Europe that they committed themselves to apply an immediate moratorium on executions, to delete the death penalty from their national legislation, and to sign and ratify Protocol No. 6. The Parliamentary Assembly also put pressure on countries which failed or risked failing to meet the commitments they had undertaken upon accession to the Council of Europe. More generally, the Assembly took the step in 1994 of inviting all member States who had not yet done so, to sign and ratify Protocol No. 6 without delay (Resolution 1044 (1994) on the abolition of capital punishment).
6. This fundamental objective to abolish the death penalty was also affirmed by the Second Summit of Heads of State and Government of member States of the Council of Europe (Strasbourg, October 1997). In the Summit's Final Declaration, the Heads of State and Government called for the "universal abolition of the death penalty and [insisted] on the maintenance, in the meantime, of existing moratoria on executions in Europe". For its part, the Committee of Ministers of the Council of Europe has indicated that it "shares the Parliamentary Assembly's strong convictions against recourse to the death penalty and its determination to do all in its power to ensure that capital executions cease to take place". The Committee of Ministers subsequently adopted a Declaration "For a European Death Penalty-Free Area".
7. In the meantime, significant related developments in other fora had taken place. In June 1998, the European Union adopted "Guidelines to its Policy Toward Third Countries on Death Penalty" which, *inter alia*, state its opposition to this penalty in all cases. Within the framework of the United Nations, a Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was adopted in 1989. For a few years, the Commission on Human Rights has regularly adopted Resolutions which call for the establishment of moratoria on executions, with a view to completely abolishing the death penalty. It should also be noted that capital punishment has been excluded from the penalties that the International Criminal Court and the

* Protocol to be opened for signature in Vilnius on 2-3 May 2002.

International Criminal Tribunals for the Former Yugoslavia and Rwanda are authorised to impose.

8. The specific issue of the abolition of the death penalty also in respect of acts committed in time of war or of imminent threat of war should be seen against the wider background of the above-mentioned developments concerning the abolition of the death penalty in general. It was raised for the first time by the Parliamentary Assembly in Recommendation 1246 (1994), in which it recommended that the Committee of Ministers draw up an additional protocol to the Convention, abolishing the death penalty both in peace and in wartime.

9. While the Steering Committee for Human Rights (CDDH), by a large majority, was in favour of drawing up such an additional protocol, the Committee of Ministers at the time considered that the political priority was to obtain and maintain moratoria on executions, to be consolidated by complete abolition of the death penalty.

10. A significant further step was made at the European Ministerial Conference on Human Rights, held in Rome on 3-4 November 2000 on the occasion of the 50th anniversary of the Convention, which pronounced itself clearly in favour of the abolition of the death penalty in time of war. In Resolution II adopted by the Conference, the few member States that had not yet abolished the death penalty nor ratified Protocol No. 6 were urgently requested to ratify this Protocol as soon as possible and in the meantime, respect strictly the moratoria on executions. In the same Resolution, the Conference invited the Committee of Ministers "to consider the feasibility of a new additional protocol to the Convention which would exclude the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war" (Paragraph 14 of Resolution II). The Conference also invited member States which still had the death penalty for such acts to consider its abolition (*ibidem*).

11. In the light of texts recently adopted and in the context of the Committee of Ministers' consideration of the follow-up to be given to the Rome Conference, the Government of Sweden presented a proposal for an additional protocol to the Convention at the 733rd meeting of the Ministers' Deputies (7 December 2000). The proposed protocol concerned the abolition of the death penalty in time of war as in time of peace.

12. At their 736th meeting (10-11 January 2001), the Ministers' Deputies instructed the CDDH "to study the Swedish proposal for a new protocol to the Convention […] and submit its views on the feasibility of a new protocol on this matter".

13. The CDDH and its Committee of Experts for the Development of Human Rights (DH-DEV) elaborated the draft protocol and the explanatory report thereto in the course of 2001. The CDDH transmitted the draft protocol and explanatory report to the Committee of Ministers on 8 November 2001. The latter adopted the text of the Protocol on 21 February 2001 at the 784th meeting of the Ministers' Deputies and opened it for signature by member States of the Council of Europe, in Vilnius, on 3 May 2002.

Commentary on the provisions of the Protocol

Article 1 – Abolition of the death penalty

14. This article, which must be read in conjunction with Article 2 of the Protocol, affirms the principle of the abolition of the death penalty. This entails the obligation to abolish this penalty in all circumstances, including for acts committed in time of war or of imminent threat of war. The second sentence of this article aims to underline the fact that the right guaranteed is a subjective right of the individual.

Article 2 – Prohibition of derogations

15. Article 15 of the Convention authorises the Contracting Parties, "in time of war or other public emergency threatening the life of the nation", to take measures derogating from their obligations under the Convention. This Protocol aims precisely at the abolition of the death penalty also in time of war or of imminent threat of war. In view of the very object and purpose of this Protocol, the applicability of Article 15 of the Convention has been excluded.

Article 3 – Prohibition of reservations

16. This article specifies, as an exception to Article 57 of the Convention, that States may not make a reservation in respect of the Protocol.

Article 4 – Territorial application

17. This is the territorial application clause contained in the Model Final Clauses adopted by the Committee of Ministers in February 1980. Its wording follows closely that of Article 5 of Protocol No. 6 to the Convention. This clause was included only to facilitate a rapid ratification, acceptance or approval by the States concerned. The purpose of paragraph 3 is merely to make allowance for formal withdrawal or modification in case the State Party ceases to be responsible for the international relations of a territory specified in such declaration and not to allow in any way States to re-introduce the death penalty in such territory.

Article 5 – Relationship to the Convention

18. The purpose of this article is to clarify the relationship of this Protocol to the Convention by indicating that all the provisions of the latter shall apply in respect of Articles 1 to 4 of the Protocol. These provisions of course include the protection machinery established by the Convention. This means, *inter alia*, that a declaration made under Article 4, paragraphs 1 or 2, of the Protocol *ipso facto* entails the extension of the Court's competence to the territory concerned.

19. As an additional Protocol, it does not, as far as the Parties to the Protocol are concerned, supersede Article 2 of the Convention, since the first sentence of paragraph 1 and the whole of paragraph 2 of that article still remain valid, even for those States. It is clear that the second sentence of paragraph 1 is no longer applicable in respect of the States Parties to this Protocol. To the extent that these States Parties have also ratified Protocol No. 6 to the Convention, they will no longer be able to avail themselves of the possibility provided for in Article 2 of Protocol No. 6. In accordance with Article 32 of the Convention, any questions concerning the precise relationship between these Protocols and between this Protocol and the Convention fall within the jurisdiction of the European Court of Human Rights.

Article 6 – Signature and ratification

Article 7 – Entry into force

Article 8 – Depositary functions

20. The provisions of Articles 6 to 8 correspond to the wording of the Model Final Clauses adopted by the Committee of Ministers of the Council of Europe.

Appendix 2
Statute of the European Commission against Racism and Intolerance (ECRI)

adopted by the Committee of Ministers in Resolution Res (2002) 8 on 13 June 2002

Article 1

ECRI shall be a body of the Council of Europe entrusted with the task of combating racism, racial discrimination, xenophobia, anti-Semitism and intolerance in greater Europe from the perspective of the protection of human rights, in the light of the European Convention on Human Rights, its additional protocols and related case law. It shall pursue the following objectives:

– to review member states' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance, and their effectiveness;
– to propose further action at local, national and European level;
– to formulate general policy recommendations to member states;
– to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

Article 2

1. One member of ECRI shall be appointed for each member state of the Council of Europe;
2. The members of ECRI shall have high moral authority and recognised expertise in dealing with racism, racial discrimination, xenophobia, anti-Semitism and intolerance;
3. The members of ECRI shall serve in their individual capacity, shall be independent and impartial in fulfilling their mandate. They shall not receive any instructions from their government.

Article 3

1. The members of ECRI shall be appointed by their governments in accordance with the provisions contained in paragraphs 2 and 3 of Article 2 above.
2. Each government shall notify the appointment of the member of ECRI in respect of its country to the Secretary General of the Council of Europe, who shall inform the Committee of Ministers thereof.
3. In the case where the Committee of Ministers considers that the appointment of one or more members of ECRI would not be in conformity with the provisions of paragraphs 2 and 3 of Article 2, it may ask the member state(s) concerned to proceed to another appointment.
4. The provisions of the preceding paragraph apply *mutatis mutandis* where, as a result of a change in a member's situation, his/her continued membership of ECRI would not be in conformity with the provisions of paragraphs 2 and 3 of Article 2.
5. The members of ECRI shall be appointed for a term of office of five years, which may be renewed. During their term of office, they may only be replaced if they have tendered their resignation, or are no longer able to exercise their functions, or in cases referred to in paragraph 4 above.

Article 4

1. If the government so wishes, a deputy to the ECRI member may be appointed. The provisions of Articles 2 and 3 above shall also apply to the appointment of deputy members except that their mandate shall in all cases expire at the same time as that of the ECRI member.
2. The conditions concerning the participation of deputy ECRI members shall be set down in ECRI's internal rules of procedure.

Article 5

The Parliamentary Assembly of the Council of Europe, the Congress of Local and Regional Authorities of Europe, the Holy See and the Management Board of the European Monitoring Centre on Racism and Xenophobia shall be invited to be represented in ECRI without the right to vote.

Article 6

1. ECRI may seek the assistance of rapporteurs or of consultants.
2. ECRI may organise consultations with interested parties.
3. ECRI may set up working parties on specific topics.
4. ECRI may be seized directly by non-governmental organisations on any questions covered by its terms of reference.
5. ECRI may seek the opinions and contributions of Council of Europe bodies concerned with its work.
6. ECRI shall periodically inform the Committee of Ministers on the results of its work.

Article 7

ECRI shall draw up an annual activity report which shall be submitted to the Committee of Ministers and made public.

Article 8

1. Meetings shall be held in camera unless ECRI decides otherwise. The quorum of ECRI shall be the majority of its appointed members.
2. ECRI shall draw up its own rules of procedure.

Article 9

The Secretariat of ECRI shall consist of an Executive Secretary and other staff members of the Directorate General of Human Rights.

Article 10

1. ECRI shall adopt its programme, which shall include, *inter alia*, three aspects:
– country-by-country approach
– work on general themes
– relations with civil society.
2. ECRI shall, as appropriate, integrate a gender perspective into its programme.
3. ECRI may, as necessary and within the limits of its terms of reference, introduce modifications or additions to its programme.

Article 11

1. In the framework of its country-by-country approach, ECRI shall monitor phenomena of racism, racial discrimination, xenophobia, anti-Semitism and intolerance, by closely examining the situation in each of the member states of the Council of Europe. ECRI shall draw up reports containing its factual analyses as well as suggestions and proposals as to how each country might deal with any problems identified.
2. In the framework of its country-by-country monitoring, ECRI shall conduct, in co-operation with the national authorities, contact visits in the countries concerned. It shall subsequently engage in a confidential dialogue with the said authorities in the course of which the latter may comment on the findings of ECRI.
3. ECRI's country reports are published following their transmission to the national authorities, unless the latter expressly oppose such publication. These reports shall include appendices containing the viewpoints of the national authorities, where the latter deem it necessary.

Article 12

ECRI's work on general themes shall generally consist of the adoption of general policy recommendations addressed to governments of member states and of the collection and dissemination of examples of "good practices" in combating racism, racial discrimination, xenophobia, anti-Semitism and intolerance.

Article 13

ECRI shall develop relations with civil society, shall have activities aimed at promoting dialogue and mutual respect among the general public and shall organise awareness-raising and information activities.

Article 14

1. The Committee of Ministers may adopt amendments to this Statute by the majority foreseen at Article 20.*d* of the Statute of the Council of Europe, after consulting ECRI.
2. ECRI may propose amendments to this Statute to the Committee of Ministers, which shall decide by the above-mentioned majority.

Appendix 3
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	●	●	●	●		○	●	○	●	○	○	●	●	●	○	
Bosnia and Herzegovina	●	●	●	●	●	●									●	
Bulgaria	●	●	●	●	●						●	●	●	●	●	●
Croatia	●	●	●	●	●	○	○	○	○	○		●	●	●	●	
Cyprus	●	●	●	●	●	●	●	○	●	●	●	●	●	●	●	
Czech Republic	●	●	●	●	●	○	●	●	●	○	○	●	●	●	●	
Denmark	●	●	●	●	●		●	●	○	○	○	●	●	●	●	
Estonia	●	●	●	●	●	○					●	●	●	●	●	
Finland	●	●	●	●	●	○	●	●	●	●	●	●	●	●	●	
France	●	●	●	●	●		●	○	●	●	●	●	●	●	○	
Georgia	●	●	●	●	●	●					○	●	●	●	○	
Germany	●	●	●	●	○	○	●	○	●		○	●	●	●	●	
Greece	●	●		●	●	○	●	●	●	●		●	●	●	●	
Hungary	●	●	●	●	●	○	●		○			●	●	●	●	
Iceland	●	●	●	●	●	○	●	○	●		○	●	●	●	○	
Ireland	●	●	●	●	●	○	●		●		●	●	●	●	●	
Italy	●	●	●	●	●	○	●	●	●	●	●	●	●	●	○	
Latvia	●	●	●	●	●	○	●	○	○			●	●	●	○	
Liechtenstein	●	●		●		○	○					●	●	●	●	

	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†
Lithuania	●	●	●	●	●		●				●	●	●	●	●	
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

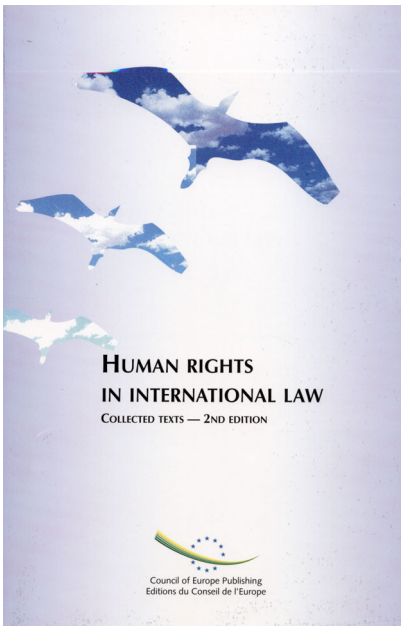
Full information on signatures and ratifications at http://conventions.coe.int/

Updated 31 July 2002

* Convention also ratified by Yugoslavia

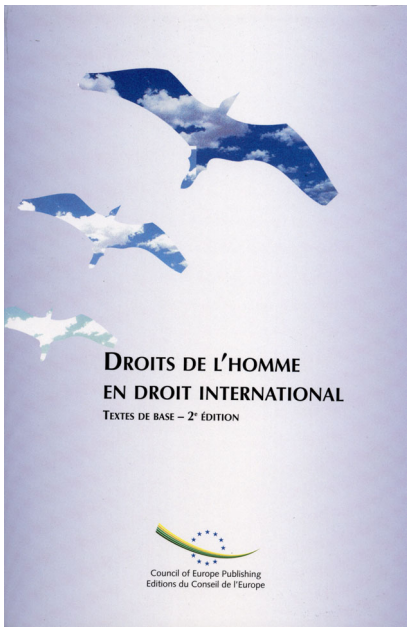
† Convention also ratified by the Holy See

Council of Europe Publishing
Editions du Conseil de l'Europe



Human Rights in International Law - Collected texts (2nd edition) (2000)
Format : 16 x 24 cm, 500 pages
ISBN 92-871-4498-2
Price : € 36.59 / US$ 60
Published in November 2000

This collection brings together in one volume a selection of the major international texts in the field of human rights, prepared by the main international organisations (United Nations, ILO, WCHR, Council of Europe, OAU, OAS, OSCE) since 1930.
This updated collection of basic texts highlights the most recent norms in the field of human rights. It can be used both as an introduction to this vast subject and as a working tool for students, professionals and others working in the field of human rights.
This book responds to the growing interest in human rights among students, lawyers, teachers, diplomats and other professional groups, as well as the general public as a whole.



Droits de l'Homme en droit international - Recueil de textes (2ème édition) (2002)
Format : 16x24 cm, 500 pages
ISBN 92-871-4497-4
Prix : 36,59 € / 60 US$
Paru en juin 2002

Ce livre de référence reproduit les textes fondamentaux dans le domaine des droits de l'homme, élaborés depuis 1930 au sein des grandes organisations internationales (ONU, OIT, CMDH, Conseil de l'Europe, OUA, OAS, OSCE) dans le domaine des droits de l'homme.
Ce recueil, mis à jour et complété, permet de mettre en évidence les nouvelles normes apparues en l'espace d'une décennie dans ce domaine. Il est à la fois une introduction claire et un outil de travail pour les étudiants et les professionnels des droits de l'homme.
Ce livre est destiné aux juristes, aux législateurs, aux diplomates, aux enseignants et aux étudiants en droit ainsi qu'à tous les acteurs de la protection des droits de la personne.

Council of Europe Publishing / Editions du Conseil de l'Europe
Palais de l'Europe, 67075 Strasbourg Cedex, France
Email : publishing@coe.int - http://book.coe.int
Tel + 33 (0) 388 41 25 81- Fax + 33 (0) 388 41 39 10

Directorate General II – Human rights
Council of Europe
F-67075 Strasbourg Cedex

Tel. +33 (0)388 41 20 00
Fax +33 (0)388 41 27 36

http://www.humanrights.coe.int/