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Contents

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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/.

Signatures and ratifications

Bosnia and Herzegovina

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

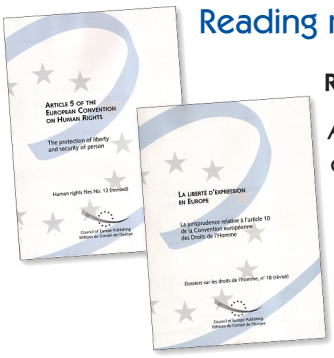
Croatia

On 3 July 2002 Croatia signed Protocol No. 13 to the European Convention on Human Rights.

Slovakia

On 24 July 2002 Slovakia signed Protocol No. 13 to the European Convention on Human Rights.

Reading matter



Recent publications dealing with the European Convention on Human Rights include:

Article 5 of the European Convention on Human Rights. The protection of liberty and security of person. Human rights files, No. 12 (revised), Council of Europe Publishing, ISBN 92-871-5019-2

Freedom of expression in Europe. Case law concerning Article 10 of the European Convention on Human Rights. Human rights files, No. 18 (revised), Council of Europe Publishing, ISBN 92-871-4879-1

Yearbook of the European Convention on Human Rights, volume 44 (2001). Edited by the Directorate General of Human Rights, published by Kluwer Law International, ISBN 90-411-1929-9

European Court of Human Rights

Introduction

Between 1 July 2002 and 31 October 2002, the Court dealt with 7101 (7171) cases:
– 3201 (3229) applications declared inadmissible
– 3350 (3371) applications struck off the list
– 92 (95) applications declared admissible
– 310 (312) applications communicated to governments
– 148 (164) 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 on other decisions of the Court, presented according to principal complaint. The list of the judgments adopted and 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

I. v. United Kingdom

Judgment of 11 July 2002

Alleged violations of: Articles 8 (right to respect for private and family life), 12 (right to marry and to found a family) and 14 (prohibition of discrimination) of the Convention

Principal facts and complaints

The applicant, a post-operative male to female transsexual, was unable to obtain admittance to a nursing school, as she refused to present her birth certificate.

She complained about the lack of legal recognition of her post-operative sex and about the legal status of transsexuals in the United Kingdom, in particular about her treatment in relation to employment, social security and pensions and her inability to marry a man.

Decision of the Court

– Concerning the right to respect for private and family life, the Court estimated that the unsatisfactory situation in which post-operative transsexuals lived was no longer sustainable and that no concrete or substantial hardship or detriment to the public interest had been demonstrated as likely to flow from any change to the status of transsexuals. As regards other possible consequences, society could reasonably be expected to tolerate a certain inconvenience to enable individuals to live in dignity and respect. It concluded that the Government could no longer claim that the matter fell within its margin of appreciation and that, by having done nothing to comply with the legal measures the Court had re-iterated since 1986, it failed to respect the applicant's right to private life.

– Concerning the right to marry – which, under Article 12, is subject to conditions imposed by national laws –, the Court went on to consider whether the allocation of sex in national law to that registered at birth was a limitation impairing the very essence of the right to marry in this case. It found no justification for barring transsexuals from enjoying this right and concluded that there had been a breach of Article 12.

– It found that no separate issue arose under Artiche 14.

Goodwin v. United Kingdom

Judgment of 11 July 2002

Alleged violations of: same rights as in the preceding case + Article 13 (right to an effective remedy)

Principal facts and complaints

The case raised issues similar to those here-above.

Decision of the Court

– Concerning the Court's conclusions on the alleged violations of Articles 8, 12 and 14, see the *I.* case above.

– Concerning the lack of effective remedy, the Court recalled that Article 13 could not be interpreted as requiring a remedy against the state of domestic law, as otherwise the Court would be imposing on Contracting States a requirement to incorporate the Convention. (Note: since the entry into force of the Human Rights Act 1998, British courts have a range of possible redress available to them).

Göç v. Turkey

Judgment of 11 July 2002

Alleged violation of: Article 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

The case concerned a claim for compensation lodged by the applicant in respect of a few days period which he had spent in detention before being released without charge. The assize court appointed one of its members to investigate the case; he decided that it was unnecessary to hear the applicant and, on the basis of the file, submitted a report recommending that compensation be granted. However, the court awarded a lower amount. The applicant and the Treasury appealed to the court of cassation. The principal public prosecutor at the court of cassation submitted his opinion on the appeal, recommending that both be rejected. The court of cassation, without holding a hearing, upheld the assize court's judgment.

The applicant complained that his right to a fair hearing was breached in that he was denied an oral hearing on his compensation claim and in that the opinion of the principal public prosecutor was not communicated to him.

Decision of the Court

– Regarding the absence of an oral hearing, the Court concluded that there were no exceptional circumstances which justified dispensing with an oral hearing, which should have afforded the applicant the opportunity to explain the emotional suffering which engenderred his detention.

– Regarding the non-communication of the principal prosecutor's submissions, the Court found that it constituted an infrigment of the applicant's right to adversarial proceedings.

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

Meftah and others v. France

Judgment of 26 July 2002

Alleged violations of: Article 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

The applicants complained that, on an appeal to the court of cassation, the advocate general's submissions were not communicated to them and that they had not been able to reply, and that they had not been informed on the date of the hearing or permitted to address the court at the hearing.

Decision of the Court

– Concerning the fact that the applicants had had no opportunity of making oral representation at the hearing, the Court took into account the special features of the procedure before the court of cassation. It carries out limited supervision of compliance with the law, to the exclusion of any examination of the facts in a strict sense, through a procedure essentially written. It estimated that the special nature of this procedure had not infringed the right to a fair trial.

– Concerning the failure to communicate to the applicants the tenor of the advocate-general's submissions and the lack of any opportunity to reply to them in writing, the Court concluded that there had been a violation of the right to adversarial process.

Mifsud v. France

Inadmissibility decision of 11 September 2002

Alleged violation of: Article 6 § 1 of the Convention (right to a fair trial)

The applicant complained of the length of proceedings he had instituted for the repayment of penalties ordered against him, pending since 1994.

The Court declared the case inadmissible for non-exhaustion of domestic remedies. Since 20 September 1999, the applicant had the possibility of submitting his complaint to the domestic courts in the form of an action for damages under Article L. 781-1 of the code of judicial organisation. This provision allows litigants to obtain a finding of a breach of their right to have their case heard within a reasonable time and compensation for the ensuing loss in respect of all domestic proceedings without distinction, whether they be completed or pending.

Mastromatteo v. Italy

Judgment of 24 October 2002

Alleged violation of: Article 2 of the Convention (right to life)

Principal facts and complaints

The applicant's son was murdered by three criminals, two of them serving prison sentences pursuant to final criminal convictions for repeated violent offences. At the material time one of these two had been released on prison leave; the other was subject to a semi-custodial regime. The applicant applied for compensation under a law which made provision for aid to be paid to the victims of terrorism and organised crime, but this claim was refused, first by the Minsiter of the Interior and then by the President of Italy.

The applicant alleged that his son's death resulted from the decisions of the judges responsible for the execution of sentences, who had granted prison leave in this case without considering whether the detainees had connections with criminal organisations operating outside the prison, and the failure on the part of the police to implement the supervisory measures to which their prison leave was subject. He also complained that he received no compensation from the State.

Decision of the Court

– Concerning the alleged failure on the authorities' part to discharge their duty to protect the life of the applicant's son, the Court considered that there was nothing to make the national authorities fear that the release of these two men might pose a real and immediate threat to life or alert the authorities to the need to take additional measures against them.

– Concerning the alleged violation of the procedural obligation arising from Article 2, the Court considered that the State had satisfied its obligations by carrying out an adequate investigation to determine the circumstances of the death, resulting in the conviction of the perpetrators and an order that they pay compensation.

As to whether the procedural obligations under Article 2 required a remedy by which a claim could be lodged against the State, the Court noted that the applicant's compensation claim had been dismissed on the ground that the statute relied on was not applicable to the case and that he could have sued the State for negligence, for which purpose there had been two remedies available to him.

Pisano v. Italy

Judgment of 24 October 2002

Alleged violation of: Article 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

The case concerned the conduct of the applicant's trial at the issue of which the applicant had been sentenced to life imprisonment. The courts had refused his requests to hear a witness who he claimed could provide an alibi. He was subsequently acquitted following a retrial.

Decision of the Court

The European Court of Human Rights had already delivered a Chamber judgment, on 27 July 2000, in which it held that there had been no violation of Article 6 § 1. The applicant requested that the case be referred to the Grand Chamber.

The Grand Chamber considered that the matter had been resolved by means of domestic remedies and that under the Italian code of criminal procedure, the applicant was entitled to seek compensation for his conviction.

It therefore struck the case out of the list.

Selected chamber judgments of the Court

Wilson and the NUJ, Palmer, Wyeth and the NURMTW, Doolan and others v. United Kingdom

Judgment of 2 July 2002

Alleged violations of: Article 10 (freedom of expression), 11 (freedom of assembly and association) and 14 (prohibition of discrimination) of the Convention

Principal facts and complaints

Each of the individual applicants belonged to one of the applicant trade unions – the National Union of Journalists (NUJ) and the National Union of Rail, Maritime and Transport Workers (NURMTW) – which were recognised by the applicants' respective employers for the purposes of collective bargaining.

The employers offered the individual applicants personalised contracts, including a wage increase, which involved relinquishing all rights to trade union recognition and representation. The applicants refused to sign the contracts, as a result of which their salaries remained at a lower level than those of employees who had accepted personal contracts. Some of them were not entitled to benefit from a private medical insurance plan.

The individual applicants all separately applied to industrial tribunals. The proceed-

ings went to the House of Lords, which held that collective bargaining over employment terms and conditions was not a defining characteristic of union membership.

Decision of the Court

– Concerning the absence, under United Kingdom law, of an obligation on employers to enter into collective bargaining, the Court considered that the latter was not indispensable for the effective enjoyment of trade union freedom, and that each country had a wide margin of appreciation as to how trade union freedom might be secured.

– Concerning permitting employers to use financial incentives to induce employees to surrender important union rights, the Court found that the respondent State failed in its positive obligation to secure the enjoyment of the rights under Article 11, as regards both the applicant unions and the individual applicants.

– The Court found that no separate issue arose under Article 10 and that it was unnecessary to examine the complaint raised under Article 14.

Göktan v. France

Judgment of 2 July 2002

Alleged violations of: Article 6 § 1 of the Convention (right to a fair trial) and Article 4 of Protocol No. 7 (right not to be tried or punished twice)

Principal facts and complaints

Having been convicted of drug-trafficking, the applicant was sentenced to five years' imprisonment, an order permanently excluding him from French territory and financial penalties. The criminal court also ordered two-years imprisonment in default under the customs code (that measure, which survives in respect of debts to the Treasury only and serves to guarantee the recovery of State debts, consists in detaining a recalcitrant debtor in a short-stay prison). The applicant, who considered that he was serving two prison sentences for the same offences, made a request for the two sentences to run concurrently, but his appeal was dismissed. After serving all his sentences, he was deported to Turkey.

The applicant alleged that enforcing the imprisonment in default measure had infringed the right not to be tried or punished twice, and complained of the automatic nature of the penalty (its length being fixed *ex officio* by the code of criminal procedure), the failure to respect the rights of the defence (the penalty being automatic) and the lack of sufficient reasons for applying the imprisonment in default measure (considered by the the case law as an enforcement procedure).

Decision of the Court

– The Court expressed reservations concerning the system of imprisonment in default, which it considered to be an outdated custodial sentence that had survived only for the benefit of the Treasury. However, in accordance with its case law in the *Gradinger v. Austria* and *Oliveira v. Switzerland* cases, the Court concluded that there was no violation of Article 4 of Protocol No. 4. Article 1 of Protocol No. 4 is inapplicable to the system of imprisonment in default because it prohibits imprisonment for unpaid debts solely in the case of a contractual obligation.

– Concerning the complaint under Article 6 § 1, it found that there was no precedent of a decision by the Convention bodies criticising the legislature for laying down a fixed penalty or requiring judges to "vary" that penalty according to the circumstances of the case, irrespective of the size of the customs fine imposed, and that this applied, *a fortiori*, to a measure which constituted at one and the same time damages and a criminal penalty.

S.N. v. Sweden

Judgment of 2 July 2002

Alleged violation of: Article 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

The applicant was sentenced for sexual abuse of a minor on the sole basis of recorded interviews of the latter. He claimed that he did not have a fair trial, as he was not given an opportunity to question the child, that the police interviews with the child were flawed and that there was no evidence to support the latter's statements of sexual abuse.

Decision of the Court

– The Court found that there was no violation of the applicant's right on the ground that his counsel was absent during the second police interview as the latter had consented not to attend and had accepted the manner in which the interview was to be conducted.

– As to the fact that the applicant was unable to question the child during the trial, the Court noted that the diffusion of the video and audio tapes of the police interviews were sufficient to have enabled him to challenge the child's statements and his credibility.

Kalashnikov v. Russia

Judgment of 15 July 2002

Alleged violations of: Articles 2 (prohibition of inhuman or degrading treatment), 5 § 3 (right to stand trial within a reasonable time) and 6 § 1 (right to a fair hearing within a reasonable time) of the Convention

Principal facts and complaints

The applicant complained about the conditions of his detention in the Magadan detention centre and about the length of his detention on remand and the criminal proceedings against him.

Decision of the Court

– As to the applicant's conditions of detention, the Court found them unacceptable and amounting to degrading treatment: there was 1-2 m^2 of space per inmate, obliging them to sleep in turns, in constant lighting and general commotion and noise due to the large number of people in the same cell; the cells were in a dilapidated state, without adequate ventilation and infested with pests, having caused the applicant to contract different skin diseases; inmates suffering from contagious diseases were not isolated.

– Concerning the period of the applicant's detention on remand – more than four years, of which the Court can only take into account the time after the entry into force of the Convention for Russia – it judged that it was attributable neither to the complexity of the case nor to a danger of obstructing its examination nor to the conduct of the applicant and, therefore, exceeded a reasonable time.

– Concerning the length of the proceedings, it also considered that it did not satisfy the reasonable time requirement.

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

Ezeh and Connors v. United Kingdom

Judgment of 15 July 2002

Alleged violation of: Article 6 § 3 of the Convention (right to legal assistance)

Principal facts and complaints

The case concerned the applicability of Article 6 of the Convention to proceedings determining charges against prisoners concerning prison disciplinary offences (use of threatening language and assault). After a hearing before the prison governor – in which the applicants were not legally represented – they were sentenced, one to 40 days, the other to 7 days detention.

They complained that they were not allowed to have a lawyer present at the hearings before the governor and that they could not obtain free legal aid for legal representation prior to and during the hearing.

Decision of the Court

– The Court found that the nature of the charges against the applicants, together

with the nature and severity of the potential and actual penalties, were such as to lead to the conclusion that the applicants were subject to criminal charges within the meaning of Article 6 § 1 and that, accordingly, this Article applied to their proceedings.

– It estimated that the the governor's refusal of the applicant's legal representation – as he was entitled to under domestic law – irrespective of whether they could have obtained the services of a lawyer free of charge constituted a violation of Article 6 § 3 c) of the Convention.

– It did not consider it necessary to examine the applicants' alternative argument that the interests of justice required that they be granted free legal assistance for the adjudication proceedings.

P., C. and S. v. United Kingdom

Judgment of 16 July 2002

Alleged violations of: Articles 6 § 1 (right to a fair trial), 8 (right to respect for family life) and 12 (right to marry) of the Convention

Principal facts and complaints

The case concerned the removal of a child at birth on emergency basis.

The applicant, P., had had a child, from a previous marriage, who was taken into protective custody and placed in his father's charge, as a suspected victim of induced illness abuse. She married again with C. and had a second child, S., who was taken from her the very day of her birth, according to an emergency protection order. A few months later, after a hearing having lasted about 20 days and involving numerous witnesses, the judge issued an order placing S. in the care of the local authority. Although P. and C.'s treatment of S. during authorised contact sessions had been recognised exemplary, the court found that the child would have been in danger with her parents because her mother had a personality disorder and her father would not accept that his wife was responsible for harming her first child. One week later, the judge issued an order freeing S. for adoption without any provision for continued direct contact with her parents. The parents did not have legal representation for this hearing. The child was adopted one year later.

The applicants made several complaints about the procedures concerning the applications for care and freeing for adoption orders, their right to respect for family life, and the immense strain put on their marriage.

Decision of the Court

– Concerning Article 6, the Court concluded that the absence of a lawyer during the hearing of the two applications prevented the applicants from putting forward their case in a proper and effective manner on issues which were crucial to them and constituted a breach of their right to a fair trial.

– Concerning Article 8, the Court first examined the question of the removal of S. at birth. It considered that the decision to obtain the emergency protection order after S.'s birth might be regarded as having been necessary in a democratic society to safeguard the child's health and rights. Nonetheless the draconian step of removing a baby from her mother shortly after birth must be supported by exceptional reasons, which was not the case. There had therefore been, in that respect, a breach of the parents' rights under Article 8.

Next, it examined if the care and freeing for adoption proceedings violated Article 8. It judged that the absence of legal representation, together with the lack of any real lapse of time between the two procedures, deprived the applicants of a fair and effective hearing and, having regard to the seriousness of what was at stake, also prevented them from being involved in the decision-making processs to a degree sufficient to provide them with the requisite protection provided by Article 8.

– Concerning Article 12 – which relates to the right to found a family and does not concern the circumstances in which interferences with family life between parents and an existing child might be justified – the Court found that no separate issue arose under this Article.

It awarded certains sums to the applicants in respect of non-pecuniary damage and for costs and expenses.

Selim v. Cyprus

Judgment of 16 July 2002

Alleged violation of: Articles 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

The applicant was refused the right to marry a Romanian national, on the ground that the Marriage Law did not allow a Turkish Cypriot professing the Muslim faith to contract a civil marriage. He was forced to marry in Romania, and, on his return to Cyprus, the immigration authorities refused entry to his wife unless he paid 300 Cypriot pounds to cover, if need be, the cost of his wife's repatriation to Romania (this sum was returned to him when his wife was granted the status of a resident alien).

Decision of the Court

The case was struck out following a friendly settlement providing for payment to the applicant of certain sums by way of just satisfaction and legal costs. (Note : since April 2002, a new law enables the members of the Turkish community to contract civil marriage).

Janosevic v. Sweden

Judgment of 23 July 2002

Alleged violation of: Article 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

In 1995, following a tax audit of the applicant's taxi firm, the tax authority revised upwards the turnover of his business and increased his liability to certain taxes. As he was found to have supplied incorrrect information, he was also ordered to pay tax surcharges. He disputed the tax authorities' assessments and appealed to the administrative courts. Since the amounts of taxes and surcharges imposed were substantial, he requested that the execution of the amounts be stayed pending the outcome of his appeal. This was refused because he was unable to provide a banker's guarantee as security. He was declared bankrupt in 1996, before his request for a stay of execution had been determined by a court. In 1999, the tax authority maintained its original decisions on taxes and tax surcharges and, in December 2001, the county administrative court upheld them. The case is now pending before the administrative court of appeal.

The applicants all claim that it was contrary to Article 6 of the Convention to enforce the decision of the tax authorities before a final court judgment had established their liabilities. They also complain that the tax proceedings were not concluded within a reasonable time. The enforcement of the tax authority's claims also deprived them of the right to be presumed innocent until proved guilty according to law.

Decision of the Court

– As tax disputes generally fall outside the scope of "civil rights and obligations" under Article 6 of the Convention, the question arose whether the tax surcharges involved the determination of a "criminal charge" within the meaning of that Article. It found that the general character of the legal provisions on tax surcharges and the purpose and the severity of the penalities showed that Article 6 was applicable.

– Concerning the complaint relating to access to court, it considered that it was indispensable, if the applicant were to have effective access to the courts, that the procedures he had set in motion were conducted promptly. In taking almost three years to decide the applicant's requests for reconsideration of the assessments, the tax authority failed to act with the urgency required by the serious implications of the case and thereby unduly delayed a court determination of the issues, depriving the applicant of effective access to court.

– Concerning the length of the proceedings, the Court considered that there had been a breach of Article 6 § 1.

– The applicant claimed that his right to be presumed innocent had been breached partly because he allegedly had an almost insurmontable burden or proof in claiming that no tax surcharges should be imposed and partly because the tax authority's decisions concerning these surcharges were enforced prior to a determination by a court of his liability to pay them.

With regard to the applicant's first contention, the Court judged that the applicant was not left without any means of defence, and that the presumptions applied in Swedish law with regard to tax surcharges were confined within reasonable limits.

With regard to the applicant's second contention, the Court noted that no amount was actually recovered from the applicant, who would in any event have been declared bankrupt on the basis of his tax debt. Moreover, as Swedish law provides for the possibility of having amounts paid reimbursed in the event of a successful appeal, the applicant's interests were sufficiently safeguarded and his right to be presumed innocent not been violated.

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

Papon v. France

Judgment of 25 July 2002

Alleged violations of: Article 6 § 1 of the Convention (right of access to a court) and Article 2 of Protocol No. 7 (right of appeal in criminal matters)

Principal facts and complaints

Sentenced to ten years' imprisonment for crimes against humanity, the applicant had lodged an appeal on points of law against the judgment. The French legislation, at that time, required that persons sentenced to a term of imprisonment of more than one year give themselves in charge (obligation of "*mise en état*") at the latest on the day before their appeal was to be considered by the Court of Cassation, unless exempted. Relying on his advanced age (89) and his state of health, the applicant applied for such exemption, which was refused. He left France to take refuge in Switzerland. It was consequently held that he had forfeited his right of appeal.

Decision of the Court

– Concerning the forfeiture of the applicant's right of access to the court of cassation, the Court referred to its case law (*Khalfaoui v. France*) according to which this measure is a particularly severe sanction to the right of access to a court.

– Concerning the second contention, the Court pointed out that it had already had occasion to rule that the French system in force at the material time had in principle been compatible with Article 2 of Protocol No. 7.

Sovtransavto Holding v. Ukraine

Judgment of 25 July 2002

Alleged violations of: Articles 6 § 1 (right to a fair trial) and14 (prohibition of discrimination) of the Convention and Article 1 of Protocol No. 1 (protection of property)

Principal facts and complaints

The applicant company, a Russian public limited company, held 49% of the shares in an Ukrainian public company, which converted into a private company and increased its share capital, as a result of which the applicant company's shareholding was reduced to 20.7 %. As a result of the changes, the directors of the Ukrainian company were able to assume sole control of the company's management and assets and would allegedly have sold part of its assets to various undertakings set up by its managing director. Later on, it was placed into liquidation and its assets were transferred to a new entity.

Interim measures in the case of 11 Chechens v. Georgia and Russia

A preliminary application from 11 Chechens, received by the Court on 4 October, alleged that that an extradition request from Russia to Georgia concerning them was about to be granted, which would result in breaches of their rights to life and to the protection against torture.

The Court decided to indicate to the Government of Georgia that it was desirable in the interests of the parties and the proper conduct of the proceedings before the Court not to extradite the applicants to Russia, until the Court had had an opportunity to examine the application in the light of the information to be provided by the Georgian government concerning the basis of the extradition and the detention measures planned by the Russian government.

The applicant company lodged a complaint seeking a declaration that the changes to the form of the company and the decisions ratifying them were unlawful. After a set of proceedings, it lodged an application with the Supreme arbitration tribunal for revision (*protest*) under the "supervisory review" procedure, seeking annulment of all the judgments relating to the cases. The tribunal set aside the preceding judgments and remitted the cases to the Kiev Region Arbitration Tribunal. The latter found partly in favour of the applicant company but, following a *protest* by the Attorney-General's Office, this judgment was set aside. The appeal on points of law by the applicant company was dismissed on the ground that it had failed to produce evidence that it had paid the court fee payable on the examinition of appeals. When it lodged a fresh appeal, it was again dismissed on the ground that it had failed to complay with the one-month time-limit.

The applicant company made several complaints concerning the right to a fair trial, the right to the protection of its property, and the discrimination it would have suffered as the Ukrainian authorities would have sought to protect the interests of their nationals.

Decision of the Court

Having rejected the Government's preliminary objection – according to which the Court had no jurisdiction to examine the applicant company's complaints, as they concerned events that had taken place prior to the date the Convention had entered into force in respect of Ukraine –, the Court took the following decisions:

– Concerning Article 6 § 1 of the Convention, it considered that judicial systems characterised by the objection (*protest*) procedure – and therefore by the risk of final judgments being set aside repeatedly – were, *ipso facto*, incompatible with the principle of legal certainty. Furthermore, it found the different and on occasion conflicting approaches that had been taken by the Ukrainian courts in the application and interpretation of the domestic law surprising. Moreover, it considered that the various interventions by the Ukrainian authorities acting at the highest level were incompatible with the notion of an "independent and impartial tribunal". Lastly, it noted that the court which had invited the applicant company to lodge a fresh appeal, after the first appeal had been dismissed on the ground that it had failed to produce evidence that it had paid the court fee due, might have been aware that the time-limit for lodging an appeal was about to expire.

In the light of the foregoing, the Court held that there had been a violation of Article 6 § 1.

– Concerning the complaint relating to Article 1 of Protocol No. 1, the Court found that the manner in which the proceedings in issue had been conducted and the uncertainty faced by the applicant company had upset the fair balance that had to be struck between the general interest and the need to protect the applicant company's right to the peaceful enjoyment of its possessions.

– It held it was unnecessary to examine the complaint under the prohibition of discrimination.

Nerva and others v. United Kingdom

Judgment of 24 September 2002

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

Principal facts and complaints

The applicants, waiters, complained that tips left in the form of an addition to a cheque or credit card payment and paid back to them by their employer as an inclusion in their pay slip as "additional pay" were counted towards the overall minimum wage. They claimed they had in effect received less than the minimum wage and were therefore entitled to damages. The United Kingdom courts held that these tips became employer's property and could be counted towards the payment of a minimum wage.

Decision of the Court

– The Court considered that there had been no interference with the applicants' right to an appropriate share of the tips and that they could not maintain that they had a separate right to the tips and a separate right to minimum remuneration calculated without reference to those tips. By claiming they had a legitimate expectation that the tips at issue would not count towards remuneration, they assumed that the customer intended so, which was too imprecise a basis on which to found a legitimate expectation which could give rise to "possessions" in the meaning of Article 1 of Protocol No. 1.

– Concerning an eventual discrimination *vis-à-vis* employees in other sectors of employment covered by the same legislation, the Court did not find that the applicants were treated less favourably.

Posti and Rahko v. Finland

Judgment of 24 September 2002

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

Principal facts and complaints

The applicants, Finnish fishermen, operated in State-owned waters in a coastal region under leases granted by the State in 1989 and renewed several times. From 1986, the Ministry of Agriculture issued a number of decrees imposing fishing restrictions to safeguard future fish stocks. In 1991, the supreme administrative court declined jurisdiction in an appeal by the second applicant against one of these decrees. In 1994, in response to the applicants' petition concerning the 1994 decree, the ombudsman found that the Ministry had not acted incorrectly. In 1996, the applicants received compensation for losses sustained as a result of the 1996 decree. A further decree was issued in 1998. The most recent lease, for the period 2000-2004, provides that salmon fishing is allowed "in so far as prescribed in the decree on salmon fishing or other provisions".

The applicants complained that they had suffered a violation of their right to the peaceful enjoyment of their possessions, the absence of access to a court or any other effective remedy, and discrimination in comparison with fishermen operating in the open sea.

Decision of the Court

– The Court first examined whether the applicants could claim a "civil right" to fish salmon and salt-water trout to an extent exceeding the limits set out in the 1996 and 1998 decrees and replied affirmatively. On the other hand, in light of the explicit terms of the leases contracted in 2000, such a right could not be thereafter claimed. Finding that the applicants had no access to a court to determine the effect of these decrees on the contractual terms of their leases, it held that there had been a violation of Article 6.

– It held that the applicants' right to fish in State-owned waters on the basis of their leases constituted a "possession". However it found that there had been no violation of Article 1 of Protocol No. 1, as the reason for the interference in the applicants' property rights – the preservation of fish stocks – was lawful, proportionate, legitimate and in the general interest. Moreover, the interference did not completely extinguish the applicants' right to fish the protected species in the relevant waters and the applicants also received compensation for losses suffered as a result of the fishing prohibition imposed by the 1996 decree.

– Concerning the question of discrimination, it found no differential treatment to the detriment of the applicants in their exercise of their contractual right to fish on designated State-owned waters.

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

Czekalla v. Portugal

Judgment of 10 October 2002

Alleged violations of: Article 6 § 1 (fair trial) and 3 c) (right to legal assistance) of the Convention

The applicant, a German national, was convicted in Portugal for drug trafficking with aggravated circumstances. The Court had assigned Ms T.M. as defence lawyer. Sentenced to fifteen years' imprisonment, he personnaly appealed against that judgment, but his appeal was dismissed on the ground that it had been drafted in German. Ms T.M. also lodged an appeal on her client's behalf, but it was declared inadmissible by the supreme court for failure to state the grounds of appeal adequately. Giving judgment on an appeal lodged by the public prosecutor, the supreme court also found the applicant guilty of conspiracy and increased his sentence.

He complained that the omissions by his officially assigned defence lawyer had deprived him of the right of access to the supreme court.

Decision of the Court

The Court reiterated that, where legal assistance was provided, the State was not responsible for every shortcoming on the part of an officially assigned lawyer. However, the national authorities were required to intervene where the inadequacy of such a lawyer appeared obvious.

In the present case, it considered that the failure of the applicant's officially assigned lawyer to comply with a procedural requirement in lodging the appeal with the supreme court was a manifest shortcoming. The supreme court should have requested the lawyer to correct her document rather than to declare the appeal inadmissible, especially when the case concerned a foreigner who had no knowledge of the language in which the proceedings were conducted and faced a lengthy prison sentence.

The Court awarded the applicant certain sums for non-pecuniary damage and for costs and expenses.

Cañete de Goñi v. Spain

Judgment of 15 October 2002

Alleged violations of: Articles 6 § 1 of the Convention (right to a fair trial)

Principal facts and complaints

The applicant had obtained a post as a certified teacher after having passed a competitive examination. However, following an application by some unsuccessful candidates, the competitive examination was declared null and void. Having failed in the new competition organised, she lost her post. She lodged an *amparo* appeal, complaining that the high court had not summoned her to appear as a third party having an interest in the proceedings. Her appeal was dismissed on the ground that she should have learnt of the proceedings from non-judicial sources as the case appeared largely in the media and notes were sent by the administration to teachers' trade-unions.
Decision of the Court

The Court judged that the pragmatic approach which the constitutional court adopted was understandable as the case concerned a high number of people. The interpretation of the domestic law which was made did not appear arbitrary or impair the very essence of the right of access to a court.

Information on other decisions of the Court between 1 July and 31 October 2002 (according to principal complaint)

Article 2
(right to life)

Ülkü Ekinci v. Turkey

Judgment of 16.7.02
Subject matter: shooting by unidentified perpetrators and lack of effective investigation (also concerned Articles 3, 6, 13 and 14)

Boso v. Italy

Inadmissibility decision of 5.9.02
Subject matter: impossibility for the father of an unborn child to intervene in his wife's decision to abort (also concerned Articles 8 and 12)

Müslim v. Turkey

Admissibility decision of 1.10.02
Subject matter: threat of expulsion to Iraq, where the applicant claimed he ran the risk of being executed (also concerned Articles 2, 3, and 13)

N.Ö. v. Turkey

Judgment of 17.10.02 (friendly settlement)
Subject matter: death of applicant's husband in custody in 1993 as a result of ill-treatment (also concerned Article 3)

Article 3
(prohibition of torture)

Venkadajalasarma v. Netherlands
Thampibillai v. Netherlands

Admissibility decision of 9.7.02
Subject matter: threat of expulsion of Tamils to Sri-Lanka, where they ran the risk of suffering ill-treatment

Aydin v. Turkey
Yildiz v. Turkey
Önder v. Turkey

Judgments of 16.7.02, 16.7.02 and 25.7.02 (friendly settlements)
Subject matter: alleged ill-treatment in custody

Iorgov v. Bulgaria
G.B. v. Bulgaria

Admissibility decision of 3.10.02
Subject matter: uncertainty regarding the situation of the applicants' – sentenced to the death penalty – during the eight years between the moratorium on executions and abolition of the death penalty; conditions of detention (also concerned Articles 6 and 13)

D.P. and J.C. v. United Kingdom

Judgment of 10.10.02
Subject matter: failure of social services to protect children from sexual abuse; struck out as disclosing no cause of action (Article 6) (also concerned Articles 8 and 13)

Süleyman Kaplan v. Turkey

Judgment of 10.10.02 (friendly settlement)
Subject matter: alleged ill-treatment in custody

Absandze v. Georgia

Admissibility decision of 15.10.02 (inadmissible under Article 6)
Subject matter: conditions of detention on remand and effectiveness of judicial review of lawfulness of detention (Article 5); independence of magistrates on the Supreme Court (Article 6); declarations made by public authorities before the applicant's conviction (Article 6)

Ammari v. Sweden

Inadmissibility decision of 22.10.02
Subject matter: threat of expulsion to Algeria, where the applicant claimed to be in danger of suffering ill-treatment; mental disorders brought on by fear of expulsion

Algür v. Turkey

Judgment of 22.10.02
Subject matter: ill-treatment while in custody; independence and impartiality of a State Security Court (Article 6)

Article 5
(right to freedom and security)

Dacewicz v. Poland

Judgment of 2.7.02
Subject matter: ordering of detention on remand by prosecutor

M.S. v. Bulgaria

Judgment of 4.7.02 (friendly settlement)
Subject matter: lawfulness of detention for examination in a psychiatric hospital

H.L. v. United Kingdom

Admissibility decision of 10.9.02 (inadmissible under Articles 3, 8 and 13)
Subject matter: unlawful placement in a psychiatric hospital (also concerned Article 14)

Benjamin and Wilson v. United Kingdom

Judgment of 26.9.02
Subject matter: impossibility for review of lawfulness of detention after serving the tariff period of a life sentence

Grisez v. Belgium

Judgment of 26.9.02
Subject matter: length of detention on remand

Smirnova v. Russia

Admissibility decision of 3.10.02 under Articles 5 (3), 6 (1) and 8 and inadmissibility decision under Articles 5 (1.c) and 6 (2) of the Convention and 4 of Protocol No. 7
Subject matter: repeated arrests and periods of detention during proceedings for fraud; conditions of detention on remand; presumption of innocence; consequences of failure to produce identity papers; withholding of identity card by the tribunal during protracted criminal proceedings (Article 8); application already submitted to another authority (Article 35); criminal proceedings reopened after several years of interruption (Article 4 of Protocol No. 7)

Satik, Çamli et Marasli v. Turkey

Judgment of 10.10.02
Subject matter: failure to bring detainees promptly before a judge and absence of review of lawfulness of detention

Gündogan v. Turkey

Judgment of 10.10.02
Subject matter: failure to bring detainees promptly before a judge; absence of review of lawfulness of detention; absence of right to compensation for unlawful detention

Pinçon v. France

Judgment of 17.10.02 (struck out)
Subject matter: length of detention on remand; length of criminal proceedings and access to legal counsel while in police custody (Article 6)

Hafsteinsdóttir v. Iceland

Admissibility decision of 22.10.02
Subject matter: detention overnight on remand in police custody on several occasions for alleged drunkenness and disturbance of the peace

Article 6
(right to a fair trial)

Halka and others v. Poland
Radoš and others v. Croatia
Pereira Palmeira and Sales Palmeira v. Portugal
Biegler Bau Gesmbh v. Austria
H.E. v. Austria
Alithia Publishing Company v. Cyprus
Rajcevic v. Croatia
J.K. v. Slovakia
Rosa Marques and others v. Portugal
De Laczay and others v. Sweden
Becker v. Germany
Sawicka v. Poland
Gucci v. Italy
Bódiné Bencze v. Hungary
Kósa v. Hungary
Longotran Transportes Internacionais Lda v. Portugal
Morais Sarmento v. Portugal
Agostinho v. Portugal
Saraiva E Lei v. Portugal
Janeva v. "former Yugoslav Republic of Macedonia"
Scaccianemici v. Italy (revision of judgment)

Gattone and others v. Italy (revision of judgment)
Simone et Pontillo v. Italy (revision of judgment)
Öcal v. Turkey
Foley v. United Kingdom
W.Z. v. Poland
Koncept-Conselho EM Comunicacão e sensibilizacão de Públicos Lda v. Portugal
Judgments of 2.7, 4.7 (friendly settlements), 4.7 (friendly settlement), 11.7 (friendly settlement), 11.7, 11.7, 23.7, 23.7 (friendly settlements), 25.7, 24.9 (friendly settlements), 26.9, 1.10, 1.10, 1.10, 1.10, 3.10, 3.10, 3.10, 3.10, 3.10, 3.10, 3.10, 3.10.02, 10.10. (friendly settlements), 22.10, 24.10 and 31.10.02
Subject matter: length of civil proceedings

Del Federico v. Italy
Casadei v. Italy
Falcone v. Italy
Baratelli v. Italy
Spinello v. Italy
Boldrin v. Italy
Andrea Corsi v. Italy
Pascazi v. Italy
Tumbarello and Titone v. Italy
Biagio Carbone v. Italy
Di Vuono v. Italy
Rocci v. Italy
Mucciacciaro v. Italy
Vieziez v. France
Ottomani v. France
Gil Leal Pereira v. Portugal
Judgments of 4.7 (cases against Italy), 15.10, 15.10 and 31.10.02
Subject matter: length of civil proceedings

Kroliczek v. France
Delli Paoli v. Italy
Gaudenze v. Italy
Cannone v. Italy
Carapella and others v. Italy
Nazzaro and others v. Italy
Fragnito v. Italy
Cecere v. Italy
Pace and others v. Italy
Judgments of 2.7 and 9.7.02 (cases against Italy)
Subject matter: length of administrative proceedings

Markass Car Hire Ltd. v. Cyprus
Judgment of 2.7.02
Subject matter: length of proceedings concerning an *ex parte* interim order

Desmots v. France
Judgment of 2.7.02
Subject matter: length of proceedings concerning a request to transfer a notary's office

Petrescu and Budescu v. Romania
Cretu v. Romania
Falcoianu v. Romania
Balanescu v. Romania
Oprea and others v. Romania
Ciobanu v. Romania
Judgments of 2.7, 9.7, 9.7, 9.7, 16.7 and 16.7.02
Subject matter: annulment by Supreme Court of Justice of final and binding judgment ordering return of property previously nationalised, exclusion of the courts' jurisdiction to review nationalisation of property (also concerned Article 1 of Protocol No. 1)

Parris v. Cyprus
Inadmissibility decision of 4.7.02
Subject matter: conviction for murder on the basis of an autopsy carried out illegally

Montera v. Italy
Inadmissibility decision of 9.7.02
Subject matter: procedure before a parliamentary commission; communication of a report containing details concerning the applicant's private life and professional ethics (Article 8)

Seher Karatas v. Turkey
Özler v. Turkey
Judgments of 9.7.02 and 11.7.02 (friendly settlements)
Subject matter: independence and impartiality of State Security Court, and conviction for incitement to hatred and hostility in the first case and for making separatist propaganda in the second (also concerned Article 10)

Nouhaud and others v. France
Judgment of 9.7.02
Subject matter: length of civil and administrative proceedings and lack of effective remedy (also concerned Article 13)

Capitanio v. Italy
Judgment of 11.7.02
Subject matter: prolonged non-enforcement of judicial decision ordering eviction of tenant

Guazzone v. Italy
Tacchino and Scorza v. Italy
M.N. and C.D.A. v. Italy
Venturi v. Italy
Pittini v. Italy
Viandti v. Italy
C.M.F. v. Italy
Judgment of 11.7 and judgments of 18.7.02
Subject matter: staggering of granting of police assistance to enforce eviction orders; prolonged non-enforcement of judicial decision; absence of court review of prefectoral decisions staggering granting of police assistance (also concerned Article 1 of Protocol No. 1)

Osu v. Italy
Judgment of 11.7.02
Subject matter: dismissal of appeal against conviction *in absentia* due to failure to comply with time limit

Stratégies et Communications and Dumoulin v. Belgium
Judgment of 15.7.02
Subject matter: length of criminal proceedings and lack of effective remedy (also concerned Article 13)

Davies v. United Kingdom
Judgment of 16.7.02
Subject matter: length of proceedings concerning disqualification of a company director

Perote Pellon v. Spain
Judgment of 25.7.02
Subject matter: impartiality of a military court judging the merits of the affair, whose members included officials having previously given decisions, during the investigation, rejecting motions brought by the accused

Yvon v. France
Admissibility decision of 19.8.02
Subject matter: failure to transmit the *commissaire du gouvernement*'s conclusions given before the court of cassation and conflicting responsibilities of the *commissaire du gouvernement* as representative of the adverse party

Didier v. France
Inadmissibility decision of 27.8.02
Subject matter: participation of the reporting judge, responsible for the investigation of the case, in deliberations on the judgment; allegations to the effect that the Council of Finance Markets does not constitute a court (Article 2 of Protocol No. 7)

Timofeyev v. Russia
Admissibility decision of 5.9.02
Subject matter: failure to carry out a final judgment (also concerned Article 1 of Protocol No. 1)

Slavicek v. Croatia
Nogolica v. Croatia
Andrášik and others v. Slovakia
Inadmissibility decisions of 4.7, 5.9 and 22.10.02
Subject matter: inadmissibility of applications owing to the existence of a new internal remedy to be exhausted

Allen v. United Kingdom
Inadmissibility decision of 10.9.02
Subject matter: self-incrimination owing to the obligation to submit information to the tax authorities

Lewis v. United Kingdom
Edwards v. United Kingdom
Admissibility decision of 10.9.02
Subject matter: alleged incitation to commit offences by agents provocateurs; failure to disclose evidence and refusal to authorise, call or identify witnesses on the grounds of public interest immunity

Cuscani v. United Kingdom
Judgment of 24.9.02

Subject matter: lack of free assistance by an interpreter during a hearing

Perry v. United Kingdom

Inadmissibility decision of 26.9.02
Subject matter: admissibility, as evidence in criminal proceedings, of video footage obtained without the applicant's knowledge (also concerned Articles 5 and 8)

Chalkley v. United Kingdom

Inadmissibility decision of 26.9.02 (admissible under Article 8)
Subject matter: admissibility as evidence, in criminal proceedings, of an audio recording made illegally in the suspect's home (also concerned Article 8)

Ostojic v. Croatia

Inadmissibility decision of 26.9.02
Subject matter: lack of remedy in action for damages against the State for damages caused by the armed forces during the war in Croatia (also concerned Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1)

Karahalios v. Greece

Admissibility decision of 26.9.02
Subject matter: failure to carry out a final judgment (also concerned Article 1 of Protocol No. 1)

Baragan v. Romania
Curutiu v. Romania
Mateescu v. Romania

Judgment of 1.10 and judgments of 22.10.02
Subject matter: annulment by Supreme Court of Justice of final and binding judgment ordering return of property previously nationalised; exclusion of courts' jurisdiction with regard to nationalisation and deprivation of property (also concerned Article 1 of Protocol No. 1)

Böhmer v. Germany

Judgment of 3.10.02
Subject matter: revocation of a suspension of sentence on the basis of the commission of a further offence, even prior to final conviction

Göçer v. Netherlands

Judgment of 3.10.02
Subject matter: length of proceedings relating to disability benefits

G.L. v. Italy

Judgment of 3.10.02
Subject matter: length of proceedings before an Audit Court

Kucera v. Austria

Judgment of 3.10.02
Subject matter: failure to ensure presence of appellant at hearing of appeal against sentence

Fernandez-Molina Gonzalez and 370 others v. Spain

Inadmissibility decision of 8.10.02
Subject matter: effectiveness of actions for damage brought against the Ministry of Justice for deficiencies in the administration of justice, leading to an excessively long civil procedure; determining the *dies a quo* in an action concerning several complaints; date from which default interest should be calculated (Article 1 of Protocol No. 1) (also concerned Article 14)

Beckles v. United Kingdom

Judgment of 8.10.02
Subject matter: jury drew adverse conclusions from the accused's failure to respond to police questioning

Steck-Risch v. Liechtenstein

Inadmissibility decision of 10.10.02
Subject matter: applicant unable to acquire and comment on the conclusions of the adverse party; no hearing in an administrative procedure; alleged lack of impartiality of judge; lack of compensation for the designation of land as non-building land (Article 1 of Protocol No. 1)

Theraube v. France

Judgment of 10.10.02
Subject matter: length of administrative proceedings and participation of the *commissaire du gouvernment* in the deliberations of the *Conseil d'Etat*

Karakoç and others v. France

Judgment of 15.10.02
Subject matter: independence and impartiality of State Security Court, including participation of judges having previously ordered detention on remand; convictions for making separatist propaganda (Article 10)

Somjee v. United Kingdom
Thieme v. Germany

Judgments of 15.10 and 17.10.02
Subject matter: length of proceedings concerning lay-offs

Fentati v. France

Judgment of 22.10.02 (friendly settlement)
Subject matter: length of proceedings relating to employment

Gianotti v. Italy
Calvagno v. Italy
Rosalba Pugliese v. Italy
F. and F. v. Italy
Biffoni v. Italy
Sartorelli v. Italy

Judgments of 3.10, 3.10, 3.10, 24.10, 24.10 and 24.10.02
Subject matter: staggering of granting of police assistance to enforce eviction orders; prolonged non-enforcement of judicial decision; absence of court review of prefectoral decisions staggering granting of police assistance (also concerned Article 1 of Protocol No. 1)

Vostic v. Autria

Judgment of 17.10.02
Subject matter: refusal, on the ground of continuing suspicion, of compensation for detention on remand

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

Amrollahi v. Denmark

Judgment of 11.7.02
Subject matter: expulsion order, following conviction, of a foreigner, entailing separation from his wife, a Danish national, and children

Armstrong v. United Kingdom

Judgment of 16.7.02
Subject matter: covert audio surveillance by the police and absence of an effective remedy (also concerned Article 13)

Taskin v. Germany

Judgment of 23.7.02 (struck out)
Subject matter: threat of expulsion of a Turkish national, which would have separated her from her husband and children (residence permit granted on humanitarian grounds)

Tamosius v. United Kingdom

Inadmissibility decision of 19.9.02
Subject matter: search of lawyer's premises and removal of materials in the context of a tax fraud investigation (also concerned Article 13)

M.G. v. United Kingdom

Judgment of 24.9.02
Subject matter: applicant's access to records detained by the social services department of the local authority in the care of which he had spent several periods during his childhood

Chalkley v. United Kingdom

Admissibility decision of 26.9.02
Subject matter: unlawful installation of listening device in a suspect's home by police

Sylvester v. Austria

Admissibility decision of 26.9.02
Subject matter: reversal of court order to return infant to father in USA

Tosto v. Italy
Crescimone v. Italy
Faranda v. Italy

Decisions of 15.10.02 (struck out)
Subject matter: homosexuals prevented from giving blood (also concerned Article 14)

Steel and Morris v. United Kingdom

Inadmissibility decision of 22.10.02

Subject matter: use of private investigators to infiltrate campaigning group to gather evidence for defamation trial; award of damages for libel (Article 10); lack of legal aid (Article 6)

Perkins and R. v. United Kingdom
Beck, Copp and Bazeley v. United Kingdom

Judgments of 22.10.02
Subject matter: dismissal of homosexuals from the armed forces following investigation into private life

Taylor-Sabori v. United Kingdom

Judgment of 22.10.02
Subject matter: absence of legal basis for interception by the police of pager messages sent via a private communications system; lack of effective remedy (Article 13)

Messina v. Italy

Judgment of 24.10.02
Subject matter: control of prisoner's correspondence with the European Commission of Human Rights

Yildiz v. Austria

Judgment of 31.10.02
Subject matter: expulsion of a foreigner, following convictions, which would have resulted in separation from wife and child

Article 9
(freedom of thought, conscience and religion)

Sahin v. Turkey
Tekin v. Turkey

Admissibility decisions of 2.7.02
Subject matter : prohibition on wearing Islamic shawl in teaching

Agga v. Greece

Judgment of 17.10.02
Subject matter: conviction of Muslim religious leader for usurping functions of a minister of a "known religion"

Article 10
(freedom of expression)

Murphy v. Ireland

Admissibility decision of 9.7.02
Subject matter: ban on broadcasting of a short radio advertisement for religious meeting

Sürek v. Turkey

Judgment of 16.7.02 (friendly settlement)
Subject matter: convictions for making separatist propaganda

Freiheitlichen Landesgruppe Burgenland v. Austria

Judgment of 18.7.02(friendly settlement)
Subject matter: award of damages in respect of publication of a caricature in a periodical

Mehmet Bayrak v. Turkey

Judgment of 3.9.02 (friendly settlement)
Subject matter: convictions for making separatist propaganda

Skalka v. Pologne

Admissibility decision of 3.10.02
Subject matter: conviction for contempt of court

Ayse Öztürk v. Turkey

Judgment of 15.10.02
Subject matter: seizure of review and conviction of publisher for incitement to hatred and hostility and making separatist propaganda

Stambuk v. Germany

Judgment of 17.10.02
Subject matter: disciplinary penalties for breaching prohibition on advertising by medical practitioners

Article 11
(freedom of assembly and association)

Maestri v. Italy

Admissibility decision of 4.7.02
Subject matter: disciplinary proceedings against a judge on account of previous membership of Freemasons (concerned also Articles 9 and 10)

Article 14
(prohibition of discrimination)

Matthews v. United Kingdom

Judgment of 15.7.02 (friendly settlement)
Subject matter: different age requirements for men and women in relation to entitlement to elderly person's travel (Article 14 in conjunction with Article 1 of Protocol No. 1)

Duchez v. France
Bleneau v. France

Inadmissibility decisions of 26.9.02
Subject matter: refusal to pay military allowances for "head of family" to women where both they and their husbands are members of the Air Force (also concerned Article 1 of Protocol No. 1)

Rice v. United Kingdom

Judgment of 1.10.02 (friendly settlement)
Subject matter: unavailability of widows' allowances to widower

Article 1 of Protocol No. 1
(protection of property)

Gayduk and others v. Ukraine

Inadmissibility decisions of 2.7.02
Subject matter: impossibility for applicants to obtain the indexed amounts of their savings in a national saving bank

Motais de Narbonne v. France

Judgment of 2.7.02
Subject matter: failure to use property for the purposes for which it was expropriated

Basacopol v. Romania

Judgment of 9.7.02
Subject matter: annulment, by Supreme Court of Justice, of final and binding judgment ordering return of property previously nationalised

Salvetti v. Italy

Inadmissibility decision of 9.7.02
Subject matter: dispute on the amount of compensation for a handicap resulting from compulsory inoculation (also concerned Article 8)

Denli v. Turkey

Judgment of 23.7.02
Subject matter: delay in payment of compensation for expropriation

Azas v. Greece

Judgment of 19.9.02
Subject matter: adequacy of compensation for expropriation; irrebuttable presumption of benefit accruing from expropriation; limit on State's liability to cover legal fees

Agatone v. Italy

Judgment of 1.10.02 (struck out)
Subject matter: refusal of authorities to issue completion certificate for property

Çelebi v. Turkey
Ince v. Turkey

Judgments of 10.10.02
Subject matter: delays in payment of compensation for expropriation

Terazzi s.a.s. v. Italy

Judgment of 17.10.02
Subject matter: prolonged building prohibition due to inactivity of local authority

Bäck v. Finland

Admissibility decision of 22.10.02 (inadmissible under Article 14)
Subject matter: quasi-extinction of claim against debtor as a result of debt adjustment

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 had responsibility for deciding, for cases that were not referred to the Court, whether or not there had 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 could be equated with a judgment of the Court – took, as from 1995, one of two forms: an "interim" resolution, which at the same time made public the Commission's report; or a "traditional" resolution (adopted after the complete execution of the judgment), in which case the Commission's report remained confidential for the entire period of the execution.

In the same way as it supervises the execution of the Court's judgments, the Committee of Ministers also continues to supervise 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. As of 1 January 2003, there were almost 1,500 such cases still pending before the Committee of Ministers for control of execution.

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

Ahmed v. Austria
Appl. No. 25964/94, Court judgment 17 December 1996
Resolution ResDH (2002) 99, 8 October 2002

Lack of jurisdiction (new complaint); violation of Article 3; pecuniary damage – claim rejected; non-pecuniary damage – finding of violation sufficient; costs and expenses partial award – domestic proceedings; costs and expenses partial award – Convention proceedings

In its judgment, the Court unanimously held that it did not have jurisdiction to consider the applicant's complaints under Articles 5 and 13 of the Convention; that for as long as the applicant faced a real risk of treatment in Somalia contrary to Article 3 of the Convention there would be a breach of that provision in the event of the decision to deport him there being implemented; that, as regards the non-pecuniary damage suffered by the applicant, this judgment in itself constituted sufficient just satisfaction for the purposes of former Article 50 of the Convention; and that the Austrian Government was to pay the applicant certain sums for costs and expenses.

The Committee of Ministers satisfied itself that the sums awarded had been paid to the applicant and took note of the following information supplied by the Austrian Government.

Appendix to Resolution ResDH (2002) 99

Information provided by the Government of Austria during the examination of the Ahmed case by the Committee of Ministers

I. The applicant's situation in Austria after the judgment

1. It should be recalled that, following the delivery of the judgment of the European Court of Human Rights, the Government made a formal commitment before the Committee not to implement the decision to deport the applicant to Somalia as long as the applicant faced a real risk of being subjected to treatment contrary to Article 3 of the Convention and that this commitment was implemented on 20 March 1997, when the applicant was authorised to stay in Austria for an initial period up to 1 March 1998.

2. While the question of the extension of this period was being considered,

the applicant committed suicide on 15 March 1998. The Government stresses that, having regard to the situation prevailing in Somalia in 1998, it was envisaged to extend the applicant's authorisation to stay in Austria. The Government deeply deplores the applicant's death.

II. General measures to prevent new similar violations:

Dissemination of the judgment:

3. The Ahmed judgment was given considerable publicity in Austria immediately after its delivery. In order to ensure that the competent authorities were adequately informed of their obligations under the Convention, the Government, between February and April 1997, ensured a broad dissemination of the judgment to the Ministry of Interior, the Asylum authorities and the domestic courts. The judgment was furthermore published in ÖJZ 1997, No. 6 (*Österreichische Juristenzeitung*) and ÖIMR Newsletter 1997, No. 1 (*Österreichisches Institut für Menschenrechte*), legal journals widely used in legal circles.

Direct effect of the judgment in the domestic law:

4. The domestic courts and authorities rapidly gave direct effect to the judgment. They notably accepted the European Court's assessment of the situation in Somalia and granted effective protection of persons running a risk of treatment contrary to Article 3 in that country, and, indeed, also in other countries with similar situations (see the Constitutional Court's judgment of 27 November 1997, B266/97 and the Supreme Administrative Court's judgment of 8 June 2000, 99/20/023-9). The Austrian supreme judicial organs have thus been playing a crucial role in preventing new violations similar to the one at issue in the *Ahmed* case.

Legislative reform

5. With a view to reflecting the Convention's requirements, as evidenced by the Ahmed judgment, in Austrian legislation, Parliament adopted on 9 July 2002 an amendment to Article 57 of the Austrian Aliens Act of 1997 (previously Article 37 in the Aliens Law of 1992), which was at the basis of the violation at issue in the *Ahmed* case (see paragraph 21 *in fine* of the judgment). The newly introduced provision reads as follows (Article 57, paragraph 1):

"Refusal of entry, expulsion or deportation of an alien to another state are unlawful if they would lead to a violation of Articles 2 and 3 of the European Convention on Human Rights or of its Protocol No. 6 on the abolition of death penalty".

The amendment was published in the Official Gazette on 13 August 2002 (BGBl. I/No.126/2002) and will enter into force on 1 January 2003.

6. This amendment explicitly integrates in the legislation, *inter alia*, the specific requirements of Article 3 of the European Convention which grants individuals a protection wider than that provided by Article 33 of the United Nation 1951 Convention, relating to the Status of Refugees (see paragraphs 40-41 of the Ahmed judgment). As a result of this amendment, the activities of an individual in the applicant's situation, however undesirable or dangerous, can thus not justify his or her expulsion when this would lead to a risk of treatment incompatible with Article 3 of the ECHR, and this irrespective of whether the threat is imputable to the state or results from the absence of state authority.

7. The Government concludes that the aforementioned measures will prevent new violations of Article 3 similar to that here at issue and that Austria has thus complied with the Court's judgment in the *Ahmed* case as required by Article 46§1 of the Convention.

Czech Republic

Kuchař and Štis v. the Czech Republic

Appl. No. 37527/97, Court judgment 18 December 2001

Resolution ResDH (2002) 128, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Denmark

Normann v. Denmark

Appl. No. 44704/98, Court judgment 20 December 2001

Resolution ResDH (2002) 129, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

France

Gautrin and others v. France

Appl. Nos. 21257/93, 21258/93, 21259/93, 21260/93, Court judgment 20 May 1998

Resolution ResDH (2002) 100, 21 October 2002

Violation of Article 6.1

In its judgment the Court unanimously held that there had been a violation of Article 6, paragraph 1, of the Convention in that the applicants' case had not been heard in public; that there had been a violation of Article 6, paragraph 1, of the Convention in that the applicants' case had not been heard by an impartial tribunal; and that the French Government was to pay the applicants certain sums for costs and expenses.

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

Appendix to Resolution ResDH (2002) 100

Information provided by the Government of France during the examination of the Gautrin and others case by the Committee of Ministers

The French Government recalls that as far as the absence of publicity is concerned, measures have already been adopted to prevent similar violations occurring, notably the adoption of Decree No. 93-181 of 5 February 1993 which provides that hearings on disciplinary matters before a body of the *Ordre des médecins* are public (see Resolution DH (97) 352 in the case of *Diennet v. France*).

It notes that *inter alia*, given the specific facts of the case, new violations regarding the impartiality of disciplinary bodies of the *Ordre des médecins* could be avoided in the future by informing the authorities directly concerned of the requirements of the Convention: the disciplinary body of the National Council of the *Ordre des médecins* accordingly sent a circular on 24 September 2001 to the Presidents and general Secretaries of the regional councils, drawing their attention to the case of *Gautrin and others* and the requirement of impartiality contained in Article 6, paragraph 1, of the Convention.

The French government is of the opinion that these measures will prevent the repetition of the violations found in the present case and considers that it has therefore fulfilled its obligations with regard to former Article 54 of the Convention.

Juhel and others v. France

Appl. No. 28713/95 to 28720/95 and No. 30020/96, Interim Resolution DH (99) 129, 19 February 1999

Final Resolution ResDH (2002) 111, 21 October 2002

Violation of Article 6.1

Delbec Annick II v. France

Appl. No. 26514/95, Court judgment 18 June 2002

Final Resolution ResDH (2002) 117, 21 October 2002

Violation of Article 5.4; non-pecuniary damage – financial award

Gerber v. France

Appl. No. 33237/96, Court judgment 28 March 2000

Resolution ResDH (2002) 118, 21 October 2002

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

J.B. v. France

Appl. No. 33634/96, Court judgment 26 September 2000

Resolution ResDH (2002) 119, 21 October 2002

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

Parege v. France

Appl. No. 40868/98, Court judgment 9 October 2001

Resolution ResDH (2002) 120, 21 October 2002

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

expenses partial award – Convention proceedings

Potier and Cocquempot v. France

Appl. Nos. 26059/94 and 31404/96, Committee of Ministers Interim Resolution DH (99) 354, 9 June 1999

Final Resolution ResDH (2002) 121, 21 October 2002

Violation of Article 6.1

In its Interim Resolution DH (99) 354, the Committee of Ministers decided that there had been a violation of Article 6, paragraph 1, of the Convention as regards the lack of access of the first applicant to a tribunal and that there had been violations of Article 6, paragraph 1, of the Convention on account of the excessive length of two sets of proceedings combined with civil action for damages.

Agreeing with the Commission's proposals, the Committee of Ministers held that the French government was to pay the applicants certain sums for non-pecuniary damage. The Committee of Ministers further took note of the fact that, on account of the specific circumstances of the case, new similar violations of the Convention could be avoided for the future by informing the authorities concerned of the requirements of the Convention: copies of the Commission's report have accordingly been sent out to the Attorney General to the Court of Appeal of Douai with a view to its wide dissemination to the *Tribunaux de Grande Instance* of Lille and Boulogne sur Mer.

Germany

Bayrak v. Germany

Appl. No. 27937/95, Court judgment 20 December 2001

Resolution ResDH (2002) 122, 21 October 2002

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

Metzger v. Germany

Appl. No. 37591/97, Court judgment 31 May 2001

Resolution ResDH (2002) 101, 21 October 2002

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

In its judgment, the Court unanimously held that there had been a violation of Article 6, paragraph 1, of the Convention and that the German Government was to pay the applicant a certain sum for non-pecuniary damage.

The Committee of Ministers took note of the fact that, on account of the specific circumstances of the case, new similar violations of the Convention could be avoided for the future by informing the authorities concerned of the requirements of the Convention: copies of the judgment had accordingly been sent out to them; in addition, the Court's judgment has been published in the 2001 volume of *Europäische Grundrechtezeitschrift*.

It satisfied itself that the Government had paid the applicant the sums provided for in the judgment of 31 May 2001.

Mianowicz v. Germany

Appl. No. 42505/98, Court judgment 18 October 2001

Resolution ResDH (2002)123, 21 October 2002

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

Greece

Twalib v. Greece

Appl. No. 24294/94, Court judgment 9 June 1998

Resolution ResDH (2002) 102, 21 October 2002

Preliminary objection joined to merits (non-exhaustion); preliminary objection rejected (non-exhaustion); no violation of Article 6.1 taken together with 6.3.b; violation of Article 6.1 taken together with 6.3.c; pecuniary damage – claim rejected; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

In its judgment, the Court held that there had been no violation of Article 6, paragraph 1, in conjunction with paragraph 3 *b*) of the Convention; that there had been a violation of Article 6, paragraphs 1 and 3 *c*) of the Convention taken together; and that the Greek Government was to pay the applicant a certain sum for non-pecuniary damage and for costs and expenses.

The Committee of Ministers satisfied itself that it had paid the applicant the sum provided for in the judgment and took note of the following information provided by the Greek Government.

Appendix to Resolution ResDH (2002) 102

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

The Government recalls that, in cases of the most serious category of criminal offence *(kakouryimata),* Article 340 § 1 of the Code of Criminal Procedure provides that the President of the first-instance court must assign counsel to an accused who is not represented in order to assure his defence. Counsel is chosen from a list of lawyers drawn up by the local Bar. Article 376 provides that, at appeal, the President has the same obligation and that Article 340 § 1 applies *mutatis mutandis*.

The Government notes that the violation of Article 6, paragraph 1 taken together with 3 c) of the Convention in this case resulted from the case law of the Court of Cassation according to which the Code of Criminal Procedure did not provide for legal aid for appeals on points of law (Court of Cassation decisions No. 381/1982, *Pinika Hronika,* vol. 32, p. 928; No. 724/1992, *Pinika Hronika,* vol. 32, p. 656; and No. 1368/1992).

Directly after the finding of the violation in this case, the judgment of the Court was disseminated (in Greek) to the competent services of the Ministry of Justice for consideration on the adoption of the necessary general measures for its execution. It was also published (in Greek) and commented in the *Piniki Dikaiosini*, (1998, p. 669) a journal largely disseminated in judicial circles.

Act No. 2721/03/06/1999 has added at the end of Article 96 of the Code of Criminal Procedure a new provision (Article 96A) which came into force on 01/07/1999 and which enlarges the court's obligation to provide free legal assistance to have in cases in which the accused do not have the means to engage a lawyer. More precisely, this provision extends, on the one hand this possibility in cases concerning the less serious category of crime (*plimmelimata).* On the other hand, it provides for the compulsory appointment *ex officio* of a lawyer until the end of the proceedings in every instance as well as for the lodging of remedies. Consequently, it covers the whole proceedings before the Court of Cassation. The lawyer is chosen from a list drawn up by the local Bar every three years in June and transmitted to all courts. The Ministers of Justice and Finance determine, with a common decision, the lawyer's fees provided for by the Code of Lawyers.

The Government considers that following the above-mentioned amendment to the Code of Criminal Procedure, there is no more risk of violations similar to that found in the present case and that Greece has, consequently, satisfied its obligations under Article 46, paragraph 1, (former Article 53) of the Convention.

Tsomtsos and others v. Greece

Appl. No. 20680/92, Court judgments 15 November 1996 (merits) and 31 March 1998

Resolution ResDH (2002) 103, 21 October 2002

Friendly settlement (violation of Article 1 of Protocol No. 1)

In its judgment, the Court unanimously held that there had been a violation of Article 1 of Protocol No. 1 of the Convention and that the Greek Government was to pay the applicants certain sums for costs and expenses.

The Committee of Ministers took note of the fact that the Court, in view of the friendly settlement reached between the Government and the applicants with respect to the latter's claims under former Article 50 of the Convention found that the agreement was equitable and decided unanimously to strike the case out of the

list. It satisfied itself that the Government had paid the applicants the sum provided for in the judgments and took note of the following information provided by the Greek Government.

Appendix to Resolution ResDH (2002) 103

Information provided by the Government of Greece during the examination of the Tsomtsos and others case by the Committee of Ministers

The Government notes that the violation of Article 1 of Protocol No. 1 in this case resulted from the Court of Cassation's case law in the field of Article 1, paragraphs 1 and 3 of Act No. 653/1977. According to this case law, the above-mentioned provisions established an irrebuttable presumption to the effect that the owners of land adjoining a major road were considered as deriving benefit from the works for its improvement. For this reason, they were obliged to contribute to the costs of building and to receive a reduced compensation. The law did not provide for proceedings which might prove that the improvement to a road did not confer any benefit and thus to rebut the presumption (judgment No. 14/1991).

Following the finding of a violation in this case, the judgment of the European Court of Human Rights was disseminated to the competent services of the Ministry of the Environment, Planning and Public Works and it was also sent to the President of the Supreme Court, in order to be disseminated to the civil courts of the State. It was also published (in Greek) in *Nomiko Vima* (46, p. 718) and *Elliniki Dikaiosini* (38/1997, p. 725), journals largely disseminated in legal circles.

The Government reiterates that Article 28 § 1 of the Constitution provides that the Convention, since its ratification, constitutes part of the national legal order and its provisions prevail over every other legislative provision. It also reiterates the direct effect of the Convention and of the Court's case law in Greek law (as shown e.g., in Resolution DH (99) 714 in the *Papageorgiou* case, as well as recent examples of in domestic case law, especially judgments 12/2002, 33/2002 and 14/1999 of the Supreme Court, plenary; judgment 954/1999 of the Athens Court of Appeals; judgment 1141/1999 of the Supreme Administrative Court, 1 Chamber; etc.), and it is of the opinion that the domestic courts will not fail to follow the Court's case law in future similar cases, considering the presumption as rebuttable and recognising that the land-owners have the right to compensation for their properties expropriated under Article 1, paragraphs 1 and 3 of Act No. 653/77.

This development is already undertaken in as much as:

- The Court of Cassation accepted that the presumption was no longer irrebuttable (judgment No. 8/1999, plenary).

- The courts of first instance and the Court of Appeal applied the Convention and the case law of the European Court directly and accepted that Article, paragraphs 1 and 3 of Act No. 653/77 must be interpreted in conformity with Article 1 of Protocol No. 1. They concluded that the presumption must be considered as rebuttable and that owners have the right to ask for full compensation for expropriation under this Act (see judgment No. 10737/98 of the Athens Court of Appeal, which refers directly to the judgments of the European Court *Katikaridis and others* (judgment of 15/11/1996), *Tsomtsos, James and others* (judgment of 21/02/1986) and *Mellacher* (judgment of 19/12/1989) cases; judgment No. 2268/2000 of the Salonika court of first instance).

Judicial proceedings for overturning the presumption (henceforth rebuttable) and for obtaining complementary compensation constitute the object of another case in which the Court found a violation of Article 1 of Protocol No. 1 (*Dimitrios Azas and others against Greece*, judgment of 19 September 2002, final on 19/12/2002, application No. 50824/99). More precisely, this case raises the question whether the evidence for overturning the presumption and obtaining complementary compensation must be examined in the proceedings concerning the determination of the unit amount or in separate proceedings. The Government will examine the question of the procedure which must be followed in the light of the conclusion of the Court in that case.

The Government considers that, given the developments mentioned above, there will no longer exist a risk of a repetition of the violation found in the present case and, consequently, Greece has satisfied its obligations under Article 46, paragraph 1 (former Article 53) of the Convention.

Papachelas v. Greece
Appl. No. 31423/96, Court judgments 25 March 1999 (merits) and 4 April 2000
Resolution ResDH (2002) 104, 21 October 2002

Friendly settlement (violation of Article 1 of Protocol No. 1)

Violation comparable to that found in the *Tsomtsos and others case*, and requiring the same measures. See appendix to Resolution ResDH (2002) 103, above.

Katikaridis and others v. Greece
Appl. No. 19385/92, Court judgment 15 November 1996 (merits) and 31 March 1998
Resolution ResDH (2002) 105 21 October 2002

Friendly settlement (violation of Article 1 of Protocol No. 1)

Violation comparable to that found in the *Tsomtsos and others case*, and requiring the same measures. See appendix to Resolution ResDH (2002) 103, above.

Italy

19 cases against Italy
relating to the excessive length of proceedings concerning civil rights and obligations before the Benevento labour court
Court judgments 22 June 2002
Resolution ResDH (2002) 130, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Netherlands

Van Nus v. the Netherlands
Appl. No. 37538/97, Court judgment 24 July 2001
Resolution ResDH (2002) 131, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Poland

Niedbała v. Poland
Appl. No. 27915/95, Court judgment 4 July 2000
Resolution ResDH (2002) 124, 21 October 2002

Violation of Article 5.3; violation of Article 5.4; violation of Article 8; non-pecuniary damage – finding of violation sufficient; costs and expenses award

Portugal

Maillard Bous v. Portugal
Appl. No. 41288/98, Court judgment 28 June 2001
Resolution ResDH (2002) 125, 21 October 2002

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

Santos and others v. Portugal
Appl. No. 41598/98, Court judgment 14 June 2001
Resolution ResDH (2002) 126, 21 October 2002

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

Jesus Mafra v. Portugal
Appl. No. 43684/98, Court judgment 27 September 2001
Resolution ResDH (2002) 132, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Barata Dias v. Portugal
Appl. No. 44296/98, Court judgment 4 October 2001
Resolution ResDH (2002) 133, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Jácome Allier v. Portugal

Appl. No. 44616/98, Court judgment 4 October 2001

Resolution ResDH (2002) 134, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Amaral de Sousa v. Portugal

Appl. No. 45566/99, Court judgment 14 February 2002

Resolution ResDH (2002) 135, 21 October 2002

Friendly settlement (alleged violation of Article 6.1)

Spain

Fuentes Bobo v. Spain

Appl. No. 39293/98, Court judgment 29 February 2000

Resolution ResDH (2002) 106, 7 October 2002

Violation of Article 10; not necessary to examine Article 14; pecuniary damage – financial award; non-pecuniary damage – financial award; costs and expenses partial award

In its judgment, the Court held that there had been a violation of Article 10 of the Convention and that the Spanish Government was to pay the applicant a certain sum for pecuniary and non-pecuniary damages and costs and expenses.

The Committee of Ministers satisfied itself that the Government had paid the applicant the sums provided for in the judgment and took note of the following information provided by the Spanish Government.

Appendix to Resolution ResDH (2002) 106

Information provided by the Government of Spain during the examination of the Fuentes Bobo case by the Committee of Ministers

As regards the question of general measures to prevent new similar violations of the Convention, the Spanish Government recalls that the Convention and the judgments of the European Court of Human Rights have direct effect in Spanish law. In view hereof, the Government is convinced that the Spanish courts will henceforth interpret the relevant legislation in any future similar case in a manner conforming to the *Fuentes Bobo* judgment.

On this point the Government in particular recalls that summaries of the judgment were rapidly published in several Spanish newspapers, *inter alia*, *El País*, *ABC*, *la Razón*, etc. In order to ensure that all authorities were adequately informed of the judgment, it was also published in translation on 15 April 2001 in the Information Bulletin of the Spanish Ministry of Justice and copies were sent to the authorities concerned. Furthermore, it was made available on the Internet site of the Ministry of Justice and has been the object of different studies by several social judicial organs.

The Government of Spain therefore considers that there is no risk of new violations similar to that found in the present case.

As regards the question of individual measures and the applicant's attempts to be reinstated in his position, the Government notes that all negative consequences of the applicant's unjustified dismissal relied upon by him before the Court (see §§ 58-60) were examined by the latter under Article 41 of the Convention and fully remedied through its award of just satisfaction. In these circumstances no further measures are required by the Spanish authorities.

In the light of the above the Government considers that Spain has complied with its obligations under Article 46, paragraph 1, of the Convention.

Diaz Aparicio v. Spain

Appl. No. 49468/99, Court judgment 11 October 2001

Resolution ResDH (2002) 127, 21 October 2002

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

Turkey

Demir and others v. Turkey

Appl. Nos. 21380/93, 21381/93 and 21383/93, Court judgment 23 September 1998

Resolution ResDH (2002) 107, 21 October 2002

Preliminary objection rejected (non-exhaustion); pecuniary damage – claim rejected; non-pecuniary damage – financial award; costs and expenses – claim rejected; violation of Article 5.3

In its judgment, the Court unanimously held that there had been a violation of Article 5, paragraph 3, of the Convention and that the Turkish Government was to pay the applicants certain sums for non-pecuniary damage.

The Committee of Ministers invited the Turkish Government to inform it of the measures taken in consequence of the judgment, satisfied itself that the Government had paid the applicant the sums provided for in the judgment and took note of the following information.

Appendix to Resolution ResDH (2002) 107

Information provided by the Government of Turkey during the examination of the Demir and others case by the Committee of Ministers

The new Law No. 4229, which was adopted on 6 March 1997 following the Court's judgment of 18 December 1996 in the *Aksoy against Turkey* case, reduced the maximum periods of detention in police custody before presenting detainees to a judge (see Interim Resolution DH (99) 434).

The maximum period in the case of offences falling under the jurisdiction of the State Security Courts and committed by several persons in concert was reduced from 15 to 7 days under normal circumstances and from 30 to 10 days in a state of emergency. In the case of offences falling under the jurisdiction of the State Security Courts and committed by individuals, the maximum period in a state of emergency was reduced from 96 to 48 hours. Finally, the maximum periods of police custody were also reduced in the case of ordinary offences committed by several persons in concert: from 8 to 7 days both under normal circumstances and in a state of emergency. In all cases, the extension of police custody beyond four days requires a court order, following application by the prosecution.

The new provisions were however considered to be insufficient to prevent new violations of Article 5 § 3 since this article had consistently been held to require that the authorities must automatically present the detainee before a judge within a period of 4 days, except in the case of a derogation under Article 15. A new reform had thus to be prepared.

On 17 October 2001, Article 19 of the Turkish Constitution was amended so as to limit to 4 days the maximum length of police custody before presenting the detainee before a judge except in case of a derogation in a state of emergency. In accordance with Articles 11 and 138 of the Constitution, the newly adopted provisions of Article 19 immediately overruled the former provisions of the Code of Criminal Procedure and thus became directly applicable by the authorities. This direct applicability of Article 19 of the Constitution was immediately confirmed by domestic courts (see, for example, decision of 24 October 2001 of the 2nd Diyarbakir State Security Court). The provisions of the Code of Criminal Procedure relating to police custody were subsequently put in conformity with the new constitutional provision.

Since all above-mentioned reforms were adopted with a view to complying with the Convention's requirements as set out in the Court's case law, the Government trusts that the Turkish courts will diligently apply the newly adopted provisions in the light of the Court's judgments, which have binding force on all Turkish authorities in accordance with Turkey's undertaking under Article 46§1 of the Convention.

The Government concludes that the measures adopted will prevent new violations of the Convention similar to that found in the present judgment and that Turkey has thus complied with its obligations under Article 46, paragraph 1 (former Article 54) in this case.

Dinç v. Turkey
Appl. No. 26148/95, Court judgment 3 July 2001
Final Resolution ResDH (2002) 108, 21 October 2002

Violation of Article 5.3; violation of Article 5.4

In its Interim Resolution DH (99) 471, the Committee of Ministers decided that there had been a violation of Article 5, paragraphs 3 and 4 of the Convention on account of the applicant's prolonged detention in police custody in Mersin during 14 days without any judicial review and on account of the absence of judicial review to challenge speedily the lawfulness of this detention.

The Committee of Ministers, agreeing with the Commission's proposals, held that the Turkish Government was to pay the applicant certain sums for non-pecuniary damage and for costs and expenses.

The Committee of Ministers satisfied itself that the Turkish Government had paid the applicant the sums provided for in the judgment and took note of the following information.

Appendix to Final Resolution ResDH (2002) 108

Information provided by the Government of Turkey during the examination of the Dinç case by the Committee of Ministers

Length of detention before presenting a person before a judge (Article 5§3):

The new Law No. 4229, which was adopted on 6 March 1997 following the Court's judgment of 18 December 1996 in the case of *Aksoy against Turkey*, reduced the maximum periods of detention in police custody before presenting detainees to a judge (see Interim Resolution DH (99) 434). As regards cases similar to the present one, *i.e.* those falling under the jurisdiction of State security courts outside the emergency rule, the maximum period of police custody was reduced from 15 to 7 days.

The new provisions were however considered to be insufficient to prevent new violations of Article 5, paragraph 3, similar to that found in the present case since this article had consistently been held to require that the authorities must automatically present the detainee before a judge within a period of 4 days, except in the case of a derogation under Article 15. A new reform had thus to be prepared.

On 17 October 2001, Article 19 of the Turkish Constitution was amended so as to limit to 4 days the maximum length of police custody before presenting the detainee before a judge except in case of a derogation in a state of emergency. In accordance with Articles 11 and 138 of the Constitution, the newly adopted provisions of Article 19 immediately overruled the former provisions of the Code of Criminal Procedure and thus became directly applicable by the authorities. This direct applicability of Article 19 of the Constitution was immediately confirmed by domestic courts (see, for example, decision of 24 October 2001 of the 2nd Diyarbakir State Security Court). The provisions of the Code of Criminal Procedure relating to police custody were subsequently put in conformity with the new constitutional provision.

Detainee's right to challenge the lawfulness of detention before a judge (Article 5§4):

The violation of Article 5, paragraph 4, found by the Court was due to the impossibility for the applicant, who had been charged with offences falling under the jurisdiction of State security courts, to bring judicial proceedings to challenge the lawfulness of their detention under Article 128, paragraph 4, of the Code of Criminal Procedure (*habeas corpus* proceedings). The above-mentioned Law No. 4229 of 6 March 1997 granted the right to bring such proceedings to all persons irrespective of the offence they were charged with.

Since all above-mentioned reforms were adopted with a view to complying with the Convention's requirements as set out in the Court's case law, the Government trusts that the Turkish courts will diligently apply the newly adopted provisions in the light of the Court's judgments, which have binding force on all Turkish authorities in accordance with Turkey's undertaking under Article 46, paragraph 1, of the Convention.

The Government concludes that the measures adopted will prevent new violations of the Convention similar to those here at issue and that Turkey has thus complied with its obligations under former Article 32, paragraph 4, of the Convention in the present case.

Şimşek v. Turkey
Appl. No. 28010/95, Interim Resolution DH (99) 561, 8 October 1999
Final Resolution ResDH (2002) 109, 21 October 2002

Violation of Article 5.3; violation of Article 5.4; violation of Article 5.5

In its Interim Resolution DH (99) 561, the Committee of Ministers decided that there had been a violation of Article 5, paragraphs 3, 4 and 5 of the Convention on account of the applicant's prolonged detention (7 days) in police custody in Ankara without any judicial review, due to the absence of effective judicial remedies to challenge the lawfulness of his detention and to the impossibility to claim compensation in respect of the excessive length of his detention.

The Committee of Ministers, agreeing with the Commission's proposals, held that the Turkish Government was to pay the applicant certain sums for non-pecuniary damage and for costs and expenses and satisfied itself that the Turkish Government had paid the applicant the sums provided for in the judgment and took note of the following information.

Appendix to Final Resolution ResDH (2002) 109

Information provided by the Government of Turkey during the examination of the Şimşek case by the Committee of Ministers

Length of detention before presenting a person before a judge (Article 5, paragraph 3):

[See the Appendix to Final Resolution ResDH (2002) 108 reproduced under *Dinç v. Turkey*, above.]

Detainee's right to challenge the lawfulness of detention before a judge (Article 5, paragraph 4):

[See the Appendix to Final Resolution ResDH (2002) 108 reproduced under *Dinç v. Turkey*, above.]

Right to claim compensation for illegal detention (Article 5, paragraph 5):

The violation of this right was largely due to the fact that, under Act No. 466, the applicant could not validly claim compensation for violations of Article 5, paragraphs 3 and 4 unless his detention also violated the corresponding provisions of Turkish law, and this was not the case.

As the constitutional and legislative provisions governing police custody were subsequently put in conformity with Article 5 requirements (see the reforms mentioned above), any violation of Article 5, paragraphs 3 and 4 would henceforth also amount to a violation of Turkish law itself and could thus be adequately compensated under Section 1 of the Act No. 466 (see paragraph 24 of the Court's judgment).

The Government furthermore submitted to the Committee a number of domestic court judgments delivered after the facts of the *Şimşek* case, which have clearly evidenced that effective compensation is today granted for unlawful detention, even in cases falling under jurisdiction of State security courts or of military courts.

Since all above-mentioned reforms were adopted with a view to complying with the Convention's requirements as set out in the Court's case law, the Government trusts that the Turkish courts will diligently apply the newly adopted provisions in the light of the Court's judgments, which have binding force on all Turkish authorities in accordance with Turkey's undertaking under Article 46, paragraph 1 of the Convention.

The Government concludes that the measures adopted will prevent new violations of the Convention similar to those here at issue and that Turkey has thus complied with its obligations under former Article 32, paragraph 4 in the present case.

Sakık and others v. Turkey
Appl. Nos. 23878/94 to 23883/94, Court judgment 26 November 1997
Resolution ResDH (2002) 110, 21 October 2002

No violation of Article 5.1; violation of Article 5.3; violation of Article 5.4;

preliminary objection joined to merits (non-exhaustion); preliminary objection rejected (estoppel); violation of Article 5.5; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Violations comparable to that found in the case of *Şimşek v. Turkey*, and requiring the same measures. See appendix to Resolution ResDH (2002) 109, above.

Gaganus and others v. Turkey
Appl. No. 39335/98, Court judgment 5 June 2001
Resolution ResDH (2002) 112, 21 October 2002

Violation of Article 1 of Protocol No. 1; not necessary to examine Article 13; pecuniary damage – financial award; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

A.T. and others v. Turkey
Appl. No. 37040/97, Court judgment 17 July 2001
Resolution ResDH (2002) 113, 21 October 2002

Violation of Article 1 of Protocol No. 1; pecuniary damage – financial award; non-pecuniary damage – financial award; costs and expenses award – Convention proceedings

Küçük v. Turkey
Appl. No. 26398/95, Court judgment 10 July 2001
Resolution ResDH (2002) 114, 21 October 2002

Violation of Article 1 of Protocol No. 1; pecuniary damage – financial award; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

M.T. and others v. Turkey
Appl. No. 34502/97, Court judgment 17 July 2001
Resolution ResDH (2002) 115, 21 October 2002

Some applications struck out of the list; violation of Article 1 of Protocol No. 1; pecuniary damage – financial award; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

E.A. and others v. Turkey
Appl. No. 38379/97, Court judgment 17 July 2001
Resolution ResDH (2002) 116, 21 October 2002

Violation of Article 1 of Protocol No. 1; pecuniary damage – financial award; non-pecuniary damage – financial award; costs and expenses partial award – Convention proceedings

Ağgül and others v. Turkey
Appl. No. 33324/96, Court judgment 22 May 2001
Resolution ResDH (2002) 136, 21 October 2002

Friendly settlement (alleged violation of Articles 5, 6, 8, 13, 14 and Article 1 of Protocol No. 1)

Aygördü and others v. Turkey
Appl. No. 33323/96, Court judgment 22 May 2001
Resolution ResDH (2002) 137, 21 October 2002

Friendly settlement (alleged violation of Articles 5, 6, 8, 13, 14 and Article 1 of Protocol No. 1)

Güven Kemal v. Turkey
Appl. No. 31847/96, Court judgment 22 May 2001
Resolution ResDH (2002) 138, 21 October 2002

Friendly settlement (alleged violation of Articles 5, 6, 8, 13, 14 and Article 1 of Protocol No. 1)

Güven Cemal and Nurhayat v. Turkey
Appl. No. 31848/96, Court judgment 22 May 2001
Resolution ResDH (2002) 139, 21 October 2002

Friendly settlement (alleged violation of Articles 5, 6, 8, 13, 14 and Article 1 of Protocol No. 1)

İnce and others v. Turkey
Appl. No. 33325/96, Court judgment 22 May 2001
Resolution ResDH (2002) 140, 21 October 2002

Friendly settlement (alleged violation of Articles 5, 6, 8, 13, 14 and Article 1 of Protocol No. 1)

United Kingdom

Downie v. the United Kingdom
Appl. No. 40161/98, Court judgment 21 May 2002
Resolution ResDH (2002) 144, 21 October 2002

Friendly settlement (alleged violation of Article 14 taken together with 8 and Article 14 taken together with Article 1 of Protocol No. 1)

Loffelman v. the United Kingdom
Appl. No. 44585/98, Court judgment 26 March 2002
Resolution ResDH (2002) 145, 21 October 2002

Friendly settlement (alleged violation of Article 14 taken together with 8 and Article 14 taken together with Article 1 of Protocol No. 1)

Resolutions concluding the execution of a judgment or decision

Turkey

Action of the security forces in Turkey: progress achieved and outstanding problems
General measures to ensure compliance with the judgments of the European Court of Human Rights in the cases against Turkey listed in Appendix II (follow-up to Interim Resolution DH (99) 434)
Interim Resolution ResDH (2002) 98, 10 July 2002

The Committee of Ministers, […]

Having regard to the forty-two judgments and decisions finding that Turkey is responsible for numerous breaches of the Convention relating notably to homicides, torture, destruction of property inflicted by its security forces and to the lack of effective domestic remedies against the State officers who have committed these abuses (see cases and violations listed in Appendix II);

Bearing in mind a number of other cases involving similar complaints which were struck off the list by the European Court following friendly settlements or other solutions found, notably on the basis of the Government's undertaking to take rapid remedial measures;

Noting that most of the violations in the cases here at issue took place against a background of the fight against terrorism in the first half of the 1990s and recalling that each member State, in combating terrorism, must act in full respect of its obligations under the Convention, as set out in the European Court's judgments;

Recalling that, since 1996-1997, when the European Court adopted its first judgments relating to the violations of the Convention committed by the Turkish security forces, the Committee has consistently emphasised that Turkey's compliance with them must *inter alia* entail the adoption of general measures so as to prevent new violations similar to those found in these cases;

Recalling that the necessity of adopting such measures was considered all the more pressing as the judgments denounced such serious violations as torture, inhuman treatment, illegal killings, disappearances and destruction of property;

Recalling its Interim Resolution DH (99) 434 of 9 June 1999, in which the Committee noted with satisfaction some progress in the adoption of such measures, while at the same time calling on Turkey rapidly to adopt further comprehensive measures mainly relating to :

- the reorganisation of the education and training of members of the security forces in order to ensure effective respect

for human rights in the performance of their duties;

- the modification of the system of criminal prosecution of members of the security forces notably to ensure that prosecutors enjoy the necessary independence and means to conduct effective criminal investigations with a view to identifying and punishing the officials responsible for abuses;

- the effective compensation of victims of violations of the Convention;

- the development of the training of prosecutors and judges in human rights so that they ensure effective respect of the Convention by security forces;

New information provided by the Turkish authorities (see Appendix 1)

Having examined the information provided by the Turkish authorities concerning the measures taken since the adoption of Interim Resolution DH(99)434, as set out in Appendix 1;

Considering with interest the most recent report of the European Committee for the prevention of torture (CPT), which was published on 24 April 2002 with the Government's authorisation, concerning the CPT's visit in Turkey in September 2001;

Assessment of the Committee of Ministers

Noting with satisfaction that, following the adoption of Interim Resolution DH(99)434, Turkey has pursued and enhanced its reform process with a view to ensuring that its security forces and other law enforcement authorities respect the Convention in all circumstances and thus prevent new violations;

Noting in particular the Government's efforts effectively to implement the existing laws and regulations concerning police custody through administrative instructions and circulars issued to all personnel of the Police and Gendarmerie, which, *inter alia*, provide for stricter supervision of their activities (see paragraphs 4-6 of Appendix I);

Noting furthermore with satisfaction the progressive lifting of the state of emergency in South-East Turkey and the Government's withdrawal on 29 January 2002 of its derogation from certain of its obligations under the Convention (Article 15), thus making the latter fully applicable in Turkey, including in the remaining state of emergency regions;

Considering also the recent constitutional and legislative amendments in particular those which limit to 4 days the maximum periods of detention before persons accused of collective offences are presented to a judge, and those which introduce the right of access to a lawyer after a maximum period of 48 hours in police custody in cases of collective offences committed in the state of emergency regions and falling within the jurisdiction of the State Security Courts (see paragraphs 7-8 of Appendix 1);

Concerned however at the continuing existence of new complaints of alleged torture and ill-treatment as evidenced notably through the new applications lodged with the European Court;

Noting in this connection that, in its above-mentioned report, the CPT, whilst noting a gradual improvement as regards the treatment of persons detained by the police in Istanbul, also draws attention to the considerable number of allegations of serious forms of ill-treatment reported in South-East regions and to the continuing existence at certain police stations in these regions of interrogation facilities of a highly intimidating character;

Stressing therefore the need to further reinforce the procedural guarantees against torture, notably by lifting restrictions on the right of persons detained on suspicion of collective offences falling under the jurisdiction of the State Security Courts to see their lawyer during the first two days of custody;

Stressing furthermore that the efficient prevention of fresh abuses by security forces requires, in addition to the adoption of new texts, an effective change of attitude and working methods by members of the security forces, effective civil remedies ensuring adequate compensation as well as effective criminal prosecution of those officials who commit violations of the Convention similar to those at issue in these cases;

Noting with concern that, three years after the adoption of Interim Resolution DH (99) 434, Turkey's undertaking to engage in a global reform of basic, in-service and management training of the Police and Gendarmerie remains to be fulfilled and stressing that concrete and visible progress in the implementation of the Council of Europe's Police Training Project (see paragraphs 9-12 of Appendix 1) is very urgent;

Noting with interest, however, that, as from October 2001, the period of basic training in Police schools has been extended from 9 months to 2 years and that the Turkish authorities intend to introduce, in connection with the Council of Europe's Police training project, comprehensive human rights training as a part of the new curriculum;

Noting with interest the new Council of Europe/European Commission Joint Initiative established in co-operation with the Turkish authorities for the human rights training of Police and Gendarmerie;

Noting, as regards the issue of domestic civil remedies, the continuing development of the administrative courts' practice of ensuring rapid reparation by the State of damage caused as a consequence of the security forces' operations and that a bill for extra-judicial reparation of such damages has been prepared by the Government in order to offer a simplified alternative to court proceedings;

Noting, furthermore with interest, the potential deterrent effect of new provisions in Turkish law enabling the State to claim back from the officials found responsible for torture and ill-treatment any just satisfaction paid in accordance with the European Court's judgments;

Stressing that an effective remedy entails, under Article 13 of the Convention, a thorough and effective investigation into alleged abuses with a view to the identification of and the punishment of those responsible, as well as effective access by the complainant to the investigative procedure;

Regretting therefore that repeated demands for the reform of Turkish criminal procedure to enable an independent criminal investigation to be conducted without prior approval by the State's prefects have not yet been met;

Concerned that recent official statistics (see paragraphs 21-25 of Appendix 1) continue to demonstrate that, where crimes of torture or ill-treatment are established, they are sanctioned by light custodial sentences, which are frequently converted into fines and, in most cases, subsequently suspended, thus confirming the persistence of the serious shortcomings in the criminal-law protection against abuses highlighted in the European Court's judgments;

Stressing therefore the need rapidly to establish and apply a sufficiently deterring minimum level of prison sentences for personnel found guilty of torture and ill-treatment and welcoming the envisaged reform of the Turkish Criminal Code on this point (Articles 243 and 245);

Stressing furthermore the need for enhanced and comprehensive training of judges and prosecutors so as to allow them to give direct effect to the requirements of the Convention as set out in the European Court's case law;

Conclusions of the Committee of Ministers

Welcomes Turkey's recent enhanced efforts which have resulted in the adoption of various important reforms necessary to comply with the above-mentioned judgments of the European Court;

Calls upon the Turkish Government to focus its further efforts on the global reorganisation of the basic, in-service and management training of Police and Gendarmerie, building notably on the efforts deployed in the framework of the Council of Europe's Police training project, with a view to achieving, without delay, concrete and visible progress in the implementation of the major reforms which were found necessary;

Urges Turkey to accelerate without delay the reform of its system of criminal prosecution for abuses by members of the security forces, in particular by abolishing all restrictions on the prosecutors' competence to conduct criminal investigations against State officials, by reforming the prosecutor's office and by establishing sufficiently deterring minimum prison sentences for persons found guilty of grave abuses such as torture and ill-treatment;

Strongly encourages the Turkish authorities to pursue and develop, in particular in the context of the new Council of

Europe/European Commission Joint Initiative, short and long-term training strategies for judges and prosecutors on the Convention and the European Court's case-law, including wider dissemination of translated judgments to the domestic courts, rapid adoption and implementation of the legislation on the Turkish Academy of Justice and inclusion in its curricula of in-depth courses on the Convention;

Calls upon the Turkish Government to continue to improve the protection of persons deprived of their liberty in the light of the recommendations of the Committee for the prevention of torture (CPT);

Invites the Turkish authorities regularly to keep the Committee of Ministers informed of the practical impact of the measures taken, notably by providing statistics demonstrating effective investigations into alleged abuses and adequate criminal accountability of members of the security forces;

Decides to pursue the supervision of the execution of the present judgments until all necessary measures have been adopted and their effectiveness in preventing new similar violations has been established.

Appendix 1 to Interim Resolution ResDH (2002) 98

Information provided by the Government of Turkey to the Committee of Ministers on the additional general measures to comply with the European Court's judgments (adopted since Interim Resolution DH (99) 434)

[Appendix not reproduced in this *Bulletin*.]

Appendix 2 to Interim Resolution ResDH (2002) 98

Judgments concerning violations of the Convention by the Turkish security forces pending before the Committee of Ministers for control of execution (general measures)

[Appendix not reproduced in this *Bulletin*.]

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 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, in such diverse areas as housing, health, education, employment, social protection, the movement of persons and non-discrimination.

European Committee of Social Rights

The European Committee of Social Rights ascertains whether countries have honoured the undertakings set out in the Charter. Its fifteen 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.

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.

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.

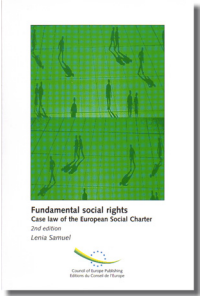
Effects of the application of the Charter in the various states

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 are described in the "Survey", published annually by the Charter Secretariat.

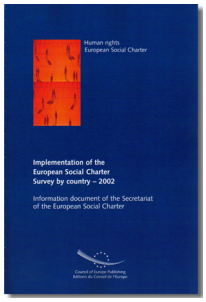
Conferences, seminars, meetings, workshops, training programmes

- **9-10 July 2002, Tbilissi, Georgia**
  Seminar on ratification of the revised European Social Charter
- **30 July 2002, Prague, Czech Republic**
  Visit for discussions following publication of the first conclusions concerning that state
- **25-26 September 2002, Chisinau, Moldova**
  Meeting with a view to the preparation of the first report on the Revised Charter which should be submitted before 31 March 2004.

Publications



- **Fundamental Social Rights, by Lenia Samuel (2nd edition – 2002)**
  ISBN 92-871-4932-5
  (available in English, French edition forthcoming)



- **Implementation of the European Social Charter, Survey by Country – 2002 (2002 edition)**
  ISBN 92-871-5009-5

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

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

Signatures et ratifications

Bosnia and Herzegovina ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as amended by its Protocols Nos. 1 and 2, on 12 July 2002. The Convention entered into force, with regard to this country, on 1 November 2002 and is now in force in all of the Council of Europe's 44 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.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of 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 July to 31 October 2002 are given below.

Visits

"The former Yugoslav Republic of Macedonia"

(15 to 19 July 2002)

This visit was the Committee's third visit to the "the former Yugoslav Republic of Macedonia".

The main purpose was to examine the treatment of persons detained by the law enforcement agencies (Ministry of the Interior). The delegation visited a number of police establishments and also interviewed persons who had recently been in police custody. In addition, the delegation examined the efficacy of legal remedies in cases involving allegations of ill-treatment, and reviewed action taken upon police-related recommendations made by the CPT after previous visits to the country.

During the visit, the delegation met senior officials from the Ministries of Justice, of the Interior and Foreign Affairs, as well as judicial and prosecuting authorities.

Turkey

(1 to 6 September 2002)

This ad hoc visit focused on the province of Diyarbakir in south-east Turkey and was designed to pursue in more depth questions already explored during an earlier ad hoc visit organised in March 2002.

The main purpose of the visit was to examine the implementation in practice of recent legal reforms concerning custody by law enforcement agencies; those reforms relate to such matters as access to a lawyer and notification of relatives. The delegation also reviewed the application 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. Further, the delegation assessed once again the conditions under which medical examinations of persons in police custody take place.

The delegation visited various departments of Diyarbakir Police Headquarters (Anti-Terror, Law and Order, Narcotics) as well as the Provincial Gendarmerie Command. In addition, visits were made to the State Hospital and to health centres in Diyarbakir, where persons in police custody are taken to be medically examined.

During the visit, the delegation held discussions with senior officials and members of the judicial authorities in Diyarbakir, including the Governor of Diyarbakir Province, the Deputy Governor of the State of Emergency Region, the President of the Diyarbakir State Security Court (3rd Chamber), the Chief Public Prosecutor at the Diyarbakir State Security Court and the Deputy Chief Public Prosecutor of the Republic in the Diyarbakir Province. It also held talks with representatives of the Bar Association in Diyarbakir and with members of the Diyarbakir Branch of the Human Rights Association.

Romania

(16 to 25 September 2002)

This visit was the CPT's fourth to Romania.

The CPT's delegation examined in particular developments concerning the treatment of persons detained by the police, as well as the treatment of involuntary patients in different types of mental health establishments.

The delegation met the Secretary of State for Justice, the Secretary of State for the Interior, the Secretary of State for Health and Family, the Secretary of State for Handicapped Persons, and the Director General of Prisons.

The delegation visited a number of police establishments, prisons and mental health establishments

Latvia

(25 September to 4 October 2002)

This was the CPT's second periodic visit to Latvia.

The CPT's delegation reviewed the measures taken by the Latvian authorities following the recommendations made by the Committee after its 1999 visit. Particular attention was paid to the treatment of persons detained by the police and border guards, as well as the conditions of detention of prisoners sentenced to life imprisonment and juvenile prisoners on remand. For the first time in Latvia, the delegation visited a social care home.

In the course of the visit, the CPT's delegation held consultations with the Minister of Justice, the Deputy State Secretary of the Ministry of the Interior, the Chief of the State Police, the Director General of the Prison Administration, and with senior officials of the Ministry of Welfare.

The delegation visited establishments under the authority of the Ministry of the Interior, prisons under the authority of the Ministry of Justice and establishments under the authority of the Ministry of Welfare.

Armenia

(6 to 17 October 2002)

A delegation of the CPT carried out its first visit to Armenia shortly after the entry into force, in respect of Armenia, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The CPT's delegation focused its attention on the treatment of persons detained by the police, on the conditions of detention in Armenian penal establishments and on the situation in military detention facilities. The delegation also visited a psychiatric establishment, where it examined, in particular, the wards for compulsory treatment and for forensic psychiatric assessment.

The CPT's delegation held consultations with the Minister of Justice, the Minister for Public Health, the First Deputy Minister of Internal Affairs, the Head of the Investigation Department at the Ministry of National Security, the First Deputy Director of Military Police and the Head of the Department for Supervision of Implementation of Criminal Punishments of the General Prosecutor's Office.

The delegation visited establishments under the respective authority of the Ministry of Internal Affairs, the Ministry of National Security, the Ministry of Justice, the Ministry for Public Health the Ministry of Defence.

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 the visits listed below.

CPT visit to Turkey, 21-27 March 2002

The assessment of the communal activities for inmates of the new F-type prisons and the examination of the implementation of recent legal reforms concerning police custody was the main objective of a visit to Turkey of the CPT in March 2002. Today the findings ("preliminary observations") are published, in agreement with the Turkish authorities, together with their response.

The Anti-Torture Committee noted progress as regards communal activities at the Sincan F-Type Prison. Some of the workshops are now up and running, regular association (conversation) periods for up to ten prisoners at a time have been introduced. Arrangements for open visits and access to the telephone are developing.

However, the delegation found that practically all the prisoners held under the "Law to Fight Terrorism" were still refusing to take up the offer of communal activities. In order to promote confidence among these prisoners, the CPT delegation calls upon the Turkish authorities to drop the existing precondition for participation in the recently introduced association periods. All prisoners should be offered this possibility, irrespective of whether they already take part in another communal activity, concluded the CPT. In their response, the Turkish authorities put forward arguments in favour of maintaining the current precondition. This issue is the subject of ongoing discussions between the CPT and the Turkish authorities.

The delegation also gathered evidence of the gradual implementation of the new measures concerning police custody. However, it found that the issue of access to lawyers for persons detained by the police clearly has been, and apparently remains, a significant problem in Diyarbakir. The Turkish authorities highlight measures taken to address this point.

The preliminary observations and the Turkish authorities' response are available at the following Internet address: http://www.cpt.coe.int/.

CPT visit to the Netherlands (including the Netherlands Antilles), 17-26 February 2002

In the Kingdom in Europe, the CPT received no allegations of ill-treatment by law enforcement officials. Some recommendations were made regarding conditions of detention in police establishments (e.g., concerning access to outdoor exercise for remand prisoners) and fundamental safeguards for persons in police custody (as regards, in particular, access to a lawyer during the initial period of detention for interrogation purposes). The CPT reviewed the situation at the Extra Security Prison (EBI) in Vught; it recommended measures in order to prevent inter-prisoner violence, improve the regime and define more precisely the conditions under which placement in this establishment may be extended. Other recommendations were made as regards

the treatment of persons suspected of carrying drugs *in corpore*, held at Bloemendaal Special Detention Facility.

During the visit to the Netherlands Antilles, the CPT reviewed the situation at Bon Futuro Prison in Curacao and visited, for the first time, Pointe Blanche Prison and the Central Police Station in Sint Maarten. The conditions of detention in that police station were unacceptable, and the authorities made a commitment to take measures immediately to remedy this situation. At Bon Futuro Prison, the material conditions had improved, but a severe shortage of staff had numerous negative consequences; in particular inter-prisoner violence and the absence of a regime. Conditions at Pointe Blanche Prison were generally more favourable, despite critically low staffing levels.

The report is available on the CPT's website.

CPT visits to Estonia, 13-23 July 1997 and 15-21 December 1999

In two reports, the (CPT) assesses the treatment of people detained in Estonia. These reports, published with the approval of the Estonian authorities together with their responses, concern two visits carried out in 1997 and 1999.

During the 1997 visit, the CPT found that, in recent years, there had been a marked improvement in the manner in which detained persons were treated by the police. However, extremely poor conditions of detention prevailed in many police arrest houses. Detainees were held for prolonged periods in unhygienic and overcrowded cells, with no mattresses and a meagre amount of food. During a follow-up visit carried out in 1999, the CPT noted the first positive steps taken by the Estonian authorities to improve this situation.

The conditions of detention of remand prisoners observed at Tallinn Central Prison in 1997 were intolerable. Deplorable material conditions were compounded by a total absence of activities. In their responses, the Estonian authorities provide detailed information on the measures taken to improve conditions of detention in the establishment and throughout the prison system.

Many allegations of ill-treatment of patients were received at Valkla Social Welfare House during the 1997 visit. Further, the establishment was not adequately resourced, particularly in terms of staff. During a follow-up visit in 1999, the CPT noted that the situation had significantly improved. No allegations of ill-treatment were heard, and special training had been organised for staff.

The CPT reports and the responses of the Estonian authorities are available on the CPT's website.

CPT visit to Belgium, 25 November-7 December 2001

A report published by the CPT assesses the treatment of persons deprived of their liberty in Belgium. The Belgian authorities gave their green light to the publication of the report, which concerns a visit carried out at the end of 2001.

A limited number of allegations of ill-treatment by law enforcement officials were heard; the CPT has recommended that the Belgian authorities remain particularly vigilant in this area. As regards fundamental safeguards against ill-treatment, the CPT considers that the time has come, having in mind the momentum for change generated by the comprehensive reorganisation of the police forces, to put into practice certain positions adopted at political level, in particular concerning access to a lawyer during police custody.

In its report, the CPT deals with the use of force and means of restraint during the removal of foreign nationals by air. The Committee's findings indicate that these operations involve a manifest risk of inhuman and degrading treatment. The CPT has taken note of the numerous measures taken by the Belgian authorities in order to reduce this risk to a minimum, including the prohibition of any techniques which might obstruct the respiratory tract. The CPT has highlighted other dangers associated with the procedures and methods used, in particular "positional asphyxia". The Committee has also recommended that any foreign national whose removal by force has had to be interrupted undergo a comprehensive medical examination.

As regards the prison system, the CPT criticises the situation in respect of psychiatric care. It has taken note of the Belgian authorities' decision to close Lantin Prison Psychiatric Unit, as well as of the plans to regroup patients and resources in the prison psychiatric sector. The CPT has also expressed concern as regards the phenomenon of inter-prisoner violence at Andenne Prison and the chronic overcrowding at Antwerp Prison.

For the first time, the CPT carried out a visit to a psychiatric hospital, Jean Titeca Hospital in Brussels, as well as to a juvenile institution, at Braine-le-Château.

The CPT's report is available on its website.

CPT visits to Ukraine, 10-26 September 2000, 15-23 July 1999 and 8-24 February 1998

In three reports the CPT assesses the treatment of people detained in Ukraine. These reports, published with the agreement of the Ukrainian authorities together with their responses, concern the three visits carried out between 1998 and 2000.

During each visit, the CPT heard numerous allegations of physical ill-treatment of detainees by members of the criminal police ("opierativniki"); mainly kicks, punches and truncheon blows, but also asphyxiation with a gas mask, suspension by the legs and/or arms and beatings on the soles of the feet. In their most recent response, the Ukrainian authorities set out a range of measures aimed at preventing ill-treatment, including the reform of recruitment procedures and reinforcement of police training.

The 1998 and 1999 reports severely criticise conditions of detention in police central holding facilities (ITTs), where people can be detained for prolonged periods. In its report on the 2000 visit, the CPT notes certain efforts made by the authorities, such as the provision of bedding, the removal of shutters from cell windows with a view to improving access to natural light and the creation of exercise yards.

A series of recommendations have been made concerning the systemic overcrowding in prison establishments, poor material conditions and the treatment of prisoners suffering from tuberculosis. The authorities describe various reforms adopted in 2001 intended to reduce considerably the prison population and improve conditions

of detention; for instance, the shutters have also been removed from cell windows in prison establishments in order to improve access to natural light and fresh air. Since July 2001, specific measures have been taken to fight tuberculosis.

In its report on the 2000 visit, the CPT welcomes the formal abolition of the death penalty in Ukraine; however, it stresses that the treatment of prisoners sentenced to life imprisonment remains a major source of concern. Measures taken by the authorities in response include more out-of-cell time per day and an increase in the number of parcels and visits.

The CPT reports and the responses of the Ukrainian Government are available on the CPT's website.

CPT visit to Denmark, 28 January-4 February 2002

The Danish government requested the publication of the CPT's report on its visit to Denmark in January/February 2002. The visit was carried out within the framework of the CPT's programme of periodic visits for 2002; it was the Committee's third visit to Denmark. The CPT visited a number of police stations, prisons and psychiatric establishments *inter alia* in Copenhagen, Horsens and Nykøbing Sjælland, as well as the Sandholm Foreigners Detention Centre. The Committee paid particular attention to the use of solitary confinement of remand prisoners by court order, measures taken to address inter-prisoner violence and intimidation and the conditions of detention of aliens deprived of their liberty. The CPT also examined, for the first time in Denmark, conditions and treatment in psychiatric institutions.

The Danish government is preparing its response to the issues raised by the Committee.

The report is available in English on the website.

CPT visit to Malta, 13-18 May 2001

The Maltese Government recently made public the report of the CPT on its visit to Malta in May 2001, together with the Government's response. The visit was carried out within the framework of the CPT's programme of periodic visits for 2001; it was the Committee's third visit to Malta.

The CPT's delegation met the Deputy Prime Minister and Minister for Social Policy, the Minister for Home Affairs, the Attorney General, and the Ombudsman.

The delegation paid particular attention to the legal framework governing safeguards against ill-treatment by the police, the programme of reconstruction at Corradino Correctional Facility (the only prison in Malta), as well as the activities provided to prisoners, and the conditions prevailing in the forensic ward at Mount Carmel Hospital.

The delegation visited a number of police establishments, prisons, psychiatric institutions and one hospital.

The report and response are available on the website.

CPT visit to Georgia, 6-18 May 2001

The CPT has issued its first report on Georgia. In May 2001 the Committee visited a number of civil and military detention centres and psychiatric facilities in the capital Tbilisi, and the towns of Kutaisi, Gori, Poti and Tskaltubo. Its recommendations deal with improving professional training for police officers, strengthening safeguards against the ill-treatment of people held in police custody, and the systematic investigation of complaints by detainees. The Georgian government, which requested the publication of the report, is preparing its response to the points raised by the Committee. That response will also be made public.

Members at 31 October 2002

Elections 18 September 2002

At their meeting of 18 September 2002, the Council of Europe Ministers' Deputies elected four members of the European Committee for the Prevention of Torture (CPT).

Marija Definis Gojanovic, Specialist in forensic medicine at the University Hospital in Split, was elected in respect of Croatia. Hildeburg Kindt, Head of the Department of Forensic Psychiatry and Psychotherapy at the Freiburg University Clinic of Psychiatry and Psychosomatic Medicine, was elected in respect of Germany. Tatiana Raducanu, Judge at the Court of Appeal, was elected in respect of Moldova and Esteban Mestre Delgado, a lawyer, in respect of Spain. Their terms of office will end on 19 December 2005.

Elections 11 July 2002

At their meeting on 11 July, the Ministers' Deputies re-elected Volodymyr Yevintov member of the European Committee for the Prevention of Torture (CPT) in respect of Ukraine. His term of office will expire on 19 December 2005. A full list of members of the CPT is available on the Internet site.

Publications

CPT: Twelve years of preventing ill-treatment

The CPT has published its 12th General Report, reviewing its activities in 2001.

The CPT is increasingly involved in such sensitive matters as the situation in Chechnya, and the reform of Turkey's prison system and the resulting campaign of hunger strikes – these are just some of the issues covered by the report. The challenges posed by the continuing extension of the CPT's field of operations are also highlighted. The CPT's on-site activities now cover the whole of the Caucasus and, following the Committee of Ministers' recent invitation to the Federal Republic of Yugoslavia to accede to the European Prevention of Torture Convention, should soon extend throughout the Balkans.

The CPT comments upon standards it has developed as regards police custody, based on its experience of visits to countless law enforcement establishments across Europe.

"We are calling for the practice observed in certain countries of blindfolding persons detained for police questioning to be expressly banned", points out CPT President Silvia Casale. The CPT welcomes the fact that the right of access to a lawyer during police custody is now generally recognised in the countries it visits; however, "this right must apply from the very outset of custody", emphasises Ms Casale.

The CPT also stresses the complementarity of the European Convention and the proposed Optional Protocol to the United Nations Convention against Torture and expresses the hope that the Protocol will soon be adopted. "We are looking forward to co-operating with the Sub-Committee on the Prevention of Torture once it is established under the Optional Protocol", adds Ms Casale.

Copies of the annual report and further information on the CPT are available on the Committee's website.

See also the theme file on the prevention of torture on the Council of Europe's website (http://www.coe.int).

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

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 October 2002, the Advisory Committee had received 31 state reports and already adopted 23 opinions, 4 of them, in respect of Slovenia, Albania, Norway and the Russian Federation, adopted during its 15th plenary meeting, held from 9 to 13 September 2002. All these opinions have been forwarded to the Committee of Ministers. During the same plenary meeting the Advisory Committee also adopted an outline for the second cycle of State reports, which has been already transmitted to the Committee of Ministers for adoption.

As at 31 October 2002, the Committee of Ministers had adopted and made public conclusions and recommendations in respect of 14 state parties (for details see: http://www.humanrights.coe.int/).

Renewal of the Composition of the Advisory Committee

The terms of office of 9 ordinary members of the Advisory Committee expired on 31 May 2002. To fill the 9 vacant seats, 9 experts were appointed by drawing lots by the Committee of Ministers as ordinary members (in respect of Bosnia and Herzegovina, Ireland, Lithuania, Moldova, Norway, Poland, Sweden, Switzerland, Federal Republic of Yugoslavia). These experts were appointed for a four-year term expiring on 31 May 2006.

Stability Pact for South Eastern Europe

Three projects concerning national minorities are currently being implemented.

These projects include 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. To date, the following Country groups of experts have submitted a Preliminary Assessment Report: Albania, Hungary, Moldova, Romania, the Federal Republic of Yugoslavia – Serbia and Ukraine.

There is also a project concerning acceptance and implementation of existing standards which is geared towards 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.

Finally there is 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 July and 31 October 2002 in the framework of the two latter projects:

- Chernivci, 13-14 September: Seminar on "Minority rights in a Democracy" organised in co-operation with the Council of Europe Kyiv office and the Konrad Adenauer Foundation
- Bucharest, 30 September and 1 October 2002: Seminar on the need to engage in the drafting of a law on national minorities organised in co-operation with the Romanian Center for Judicial Resources

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

Among the activities carried out in this framework during the reference period:

- Tallinn, 26 September: 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 Ministry of Foreign Affairs of Estonia and the Office of the Council of Europe in Tallinn;
- Sinaia, 28-29 October: 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 Ministry of Public Information and the Ministry of Foreign Affairs of Romania. The relevant documentation (the Opinion of the Advisory Committee and the resolution of the Committee of Ministers related to Romania) was provided to the participants in Romanian as well as in minority languages (translations made by the Information and Documentation Center of the Council of Europe in Romania with the support of the Council of Europe).

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 13 June 2002, the Committee of Ministers adopted a new Statute for ECRI, which will enter into force in January 2003. This new Statute consolidates ECRI's specific role as an independent human rights mechanism for monitoring issues related to racism and racial discrimination in the 44 member states of the Council of Europe.

The full text of the statute appears in Appendix 2 of the Human rights information bulletin No. 56.

Country-by-country

ECRI made public its reports on Finland, Latvia, Malta and Ukraine in July 2002, and on Portugal in November 2002.

These new 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 were carried out, 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 forthcoming General Policy Recommendation no. 7 would be on national legislation to combat 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, in consultation with NGOs and national bodies specialised in combating racism and intolerance. This recommendation will spell out what should be the key features of appropriate national legislation in this field, covering constitutional, civil, administrative and penal law. It is expected that the general policy recommendation will be adopted by ECRI at its plenary meeting of December 2002 and made public towards the beginning of February 2003.

Relations with civil society

Response to recent world events

On 20 March 2002, ECRI adopted a programme of action on relations with civil society aiming, *inter alia*, to contribute in a positive fashion to the general efforts underway in the Council of Europe to combat terrorism and its consequences, through the strengthening of multicultural and inter-religious dialogue.

This programme of action also constitutes the basis for ECRI's contribution to the implementation of the conclusions of the World Conference against racism, which stressed the importance of involving civil society in the fight against racism and intolerance.

The activities foreseen and priority areas of work within this programme of action are the organisation of round-tables and information sessions on the fight against racism and racial discrimination in member states; enhanced co-operation with NGOs; the development of a communication strategy and information activities aimed at the political bodies of the Council of Europe.

In October 2002 ECRI organised its first Round Table within the framework of this programme of action in Romania, to follow the recent publication (Spring 2002) of ECRI's second report on Romania. Governmental and civil society representatives were invited to discuss various topical themes related to combating racism and intolerance, with the aim of contributing to debates and encouraging reflection in governmental and non-governmental circles, as well as raising awareness among the general public about problems related to racism, racial discrimination, anti-Semitism and intolerance.

Publications

Second report on Finland

(CRI (2002) 20) 23/07/2002

Second report on Latvia

(CRI (2002) 21) 23/07/2002

Second report on Malta

(CRI (2002) 22) 23/07/2002

Second report on Portugal

(CRI (2002) 33) 04/11/2002

Second report on Ukraine

(CRI (2002) 23) 23/07/2002

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

Equality between women and men

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

Trafficking in human beings for the purpose of sexual exploitation

The Council of Europe has launched a project on Criminal Law Reform on Trafficking in Human Beings in South-Eastern Europe (Lara Project) in the framework of the Stability Pact Task Force on Trafficking in Human Beings. The aim of this project is to ensure that trafficking in human beings is made a full criminal offence, that victims' human rights are protected throughout the region and that the relevant legislation is developed in a co-ordinated way. The project is being carried out in partnership with the Directorate General of Legal Affairs in the framework of its Programme on Combating Economic and Organised Crime.

The countries involved in the project are Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Federal Republic of Yugoslavia (Serbia, Montenegro, Kosovo), "the former Yugoslav Republic of Macedonia", Moldova, Romania and Slovenia.

Gender mainstreaming

A meeting of the Informal Network of Experts on Gender Mainstreaming took place on 7 October 2002. The discussions focused on gender mainstreaming in social policies.

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

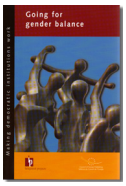
For the first time, the Council of Europe organised seminars on equality issues in Armenia (Yerevan, 1-2 July) and in Azerbaijan (Baku, 10-11 July). Discussions focused on the balanced participation of women and men in political and public life and legislation and strategies to promote equality, including gender mainstreaming, national equality machinery and national equality plans.

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

Publications

Going for gender balance – making democratic insitutions work

ISBN: 92-871-4901-1



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

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.

Systematic training of judges on the ECHR in Ukraine

Some Ukrainian judges had already the benefit of seminars on the European Convention on Human Rights (ECHR) organised by various organisations, including the Council of Europe in the past. However, a more systematic approach to training on the ECHR was launched in June 2002 with two training seminars held in Ivano-Frankivsk. This seminar was the first of a series designed to equip all Ukrainian judges – at the time when the project was discussed the number of judges was around 5000, they are now more than 6000 – to apply the ECHR taking into consideration the case law of the European Court of Human Rights.

This programme was established under the Joint Programme between the European Commission and the Council of Europe to Strengthen Democratic Stability in Ukraine and was designed in 2001 by the Human Rights Co-operation and Awareness Division (HRCAD) in co-operation with the Ministry of Justice of Ukraine and the Supreme Court of Ukraine. This is the first time since Ukraine ratified the ECHR on 11 September 1997 that such a systematic effort has been made to facilitate the implementation of the ECHR at the domestic level, and as a consequence of that, to improve human rights protection in Ukraine.

The project is being carried out by the HRCAD in co-operation with the Centre for Judicial Studies, a non-governmental organisation based in Kyiv. Ukrainian experts, from a broad professional range, such as staff from the Government Agent's Office, academics, judges from the Supreme Court, lawyers and human rights activists, are used as lecturers, and Ukrainian judges are used as trainers. The use of local experts is intended to contribute to establishing a continuing capacity to train in the human rights field in Ukraine.

Following the seminars in Ivano-Frankivsk, 33 seminars took place throughout the Ukrainian regions, in Rivno, Lutsk, Volynsky, Uman Sebastopol, Cherkassy, Chernihiv, Poltava, Sumy, Mykolayiv, Kirovograd, Odessa, Lviv, Zhitomir and Kyiv. This has resulted in more than 1700 judges already receiving basic training on the ECHR, through lectures, work on case studies and written materials in Ukrainian, all specifically prepared for this programme. For many of them this was the first encounter with the ECHR.

In total, 100 seminars are planned and the remaining 65 will take place in December 2002 and in the course of 2003. After completion of the programme, recommendations for developing long-term training strategies for judges in human rights in Ukraine will be made, so that appropriate curricula can be established.

The HRCAD has also been involved in training of lawyers in Ukraine, through the support of an in-depth training programme of a group of 35 Ukrainian lawyers from various regions of Ukraine, done in co-operation with the Ukrainian Union of Advocates and INTERIGHTS, based in London since 2000.

Development of the Institution of the Regional Ombudsperson in the Russian Federation

The Directorate General of Human Rights has been actively involved in a project to support the institution of the regional parliamentary ombudsman in the Russian Federation since 1998. The project is carried out under the Joint Programme of co-operation between the European Commission and the Council of Europe to strengthen the rule of law and the protection of Human Rights in the Russian Federation.

As part of this programme – and following three human rights training seminars for staff of ombudspersons offices, which took place in June 2002 in Kaliningrad, Astrakhan and Ekaterinburg respectively – two workshops were conducted in the Far East of Russia, namely Khabarovsk and Vladivostok on 4-6 and 8-10 July 2002. The objective of the two Far East workshops was to extend the network of regional parliamentary ombudspersons throughout the Russian Federation and to increase the number of ombudspersons elected and laws adopted. The workshop in Khabarovsk aimed at promoting the existence and proper functioning of the ombudsman institution, as well as encouraging the relevant regional authorities to commence the process of drafting ombudsperson legislation. It was devoted to a strategy discussion on how to foster and achieve the election of regional parliamentary ombudsmen, drawing on applicable European and other RF regional experience. In Primorskyi region, where Vladivostok is situated, a Law on the Ombudsperson was adopted in 1998, yet an ombudsperson has not so far been elected. The workshop proved to be a forum to facilitate and intensify dialogue among the regional parliament, the Governor's office and the NGO world

on the question of electing a regional parliamentary ombudsperson.

In the pursuit of extending and strengthening the Parliamentary ombudsmen network one Round table took place on 25 to 27 September 2002 in Yekateringburg. The event helped establish links between the Association of Regional Parliamentary Ombudsmen in the Russian Federation and European institutions, and to facilitate regional ombudsmen in applying existing relevant European human rights standards in their daily work. Particular topics discussed were the protection of socio-economic rights of the vulnerable groups of population in the North and Far-North part of the Russian Federation; the problems of implementation of the federal legislation on citizenship in frontier regions like Kaliningrad; etc. The discussion also addressed issues of human rights protection which needed revision in the current federal legislation, and means of co-operation in this matter with the regional and federal legislation authorities. There are 69 regions at present in the Russian Federation in which an ombudsperson has not been elected. In some of the regions where an ombudsperson exists, the relationship between their office and the local executive branch is not necessarily smooth, the reason being, in part, the absence of a federal law governing the activities of regional ombudspersons. It was suggested that a working group be created for the elaboration of a draft proposal of a federal law on the subject.

Another activity under this programme is the development and maintenance of the regional ombudsman website (which can be found at the address www.ombu.ru).

This website was established in 2001 by the St. Petersburg Political Science and Humanitarian Center "Strategy" in co-operation with the Directorate General of Human Rights of the Council of Europe and to date it has proven to be an excellent source of information and promotion of the Regional Ombudsperson Institution. At present, information about legislation and activities of 18 regional ombudspersons is posted on the website. However, continuous support is provided towards the update and improvement of the technical characteristics of the website, and an idea is explored to transform it into a web-portal, which would allow regional ombudspersons to post recent information about their activities directly on the web.

"Protecting and Respecting Human Rights – The Main Task of Policing" project by the Russian Militia

The "Police and Human Rights – Beyond 2000" Programme is currently initiating a major venture in the Russian Federation. This project, which will last for 2 years and is supported financially by the Irish and British Governments, consists of a programme of training designed to increase the professional skills of Militia and at the same time raise awareness and observance of human rights principles in the following three areas:

- Domestic violence
- "Hate" crimes
- The interviewing of criminal suspects

The European Platform for Policing and Human Rights

The first Annual General Meeting of the European Platform for Policing and Human Rights was held in Riga on 26-27 September 2002. During this meeting a leaflet was presented outlining the main objectives of the Platform and providing details on how to become a member.

Calendar

On 3-5 September 2002, a meeting was organised in Kharkiv, Ukraine, in order to discuss the possibility of organising future co-operation activities in the field of police and human rights. This project will be a joint initiative with the European Commission.

On 25 September 2002, a seminar was held in Riga on policing and human rights for Latvian police where the discussion focused on "police good practice".

On 22-25 October 2002, an assessment study was organised in Tbilisi to develop a training programme for the police in co-operation with the Academy of the Ministry of the Interior.

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.

Terrorism

Guidelines adopted

On 15 July 2002 the Ministers' Deputies adopted the "Guidelines on human rights and the fight against terrorism" – the first international text on the subject.

They state that a person accused of terrorist activities must under no circumstances be subject to the death penalty and that, where such a sentence is imposed, it may not be carried out.

The guidelines open by reaffirming the obligation on states to protect everyone against terrorism, and reiterate the obligation to avoid arbitrariness, the requirement that all measures taken by states to combat terrorism must be lawful, and the absolute prohibition of torture. They also set out a framework which particularly concerns the collecting and processing of personal data and for measures which interfere with privacy, arrest, police custody and pre-trial detention, legal proceedings, extradition and compensation of victims.

Throughout the discussions leading to the adoption, it was pointed out that these guidelines represent the minimum standards, and that states have the option of ensuring a level of protection for their citizens that goes beyond the level recommended in this text.

Guidelines on human rights and the fight against terrorism, Council of Europe Publishing, ISBN 92-871-5021-4. Text also available on the Council of Europe's Web site in several languages.

The text of the guidelines is reprinted on page 40 of this *Bulletin*.

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

Moldova

On 4 July 2002 the Chair of the Committee of Ministers, Lydie Polfer, sent a letter to Moldovan President Vladimir Voronin, in which she urged Moldova to fulfil its commitments to the organisation.

Among the issues raised by Ms Polfer were the execution of the judgment of the European Court of Human Rights concerning the registration of the Metropolitan Church of Bessarabia, and the transformation of State

Company Radio Tele Moldova into an independent public service broadcasting corporation. Another area of concern was the delay in drafting new laws on local administration, as required by the Congress of Local and Regional Authorities of Europe.

The letter stressed that in order to help Moldova implement its democratic reforms, the Committee of Ministers has adopted a "targeted co-operation programme" for the country. The timely fulfilment of the commitments referred to in the letter would both lay a solid foundation for the implementation of the co-operation programme, and send a positive signal about the political will of the Moldovan government to fully meet its present and future responsibilities within the Council of Europe.

Hostages

Declaration by the Committee of Ministers on hostage-taking in Moscow, 25 October 2002

Meeting in an emergency session in Strasbourg, the Committee of Ministers strongly condemned the hostage-taking in Moscow. It expressed its solidarity with the victims, the people and the authorities of the Russian Federation.

Confirming the position already expressed yesterday by the Secretary General, the Committee of Ministers said it objected in the strongest possible terms to this resorting to violence which can never be justified. It underlined that the solution to the Chechen conflict could be only political.

The Committee of Ministers was particularly shocked by the fact that dozens of innocent children were held hostage, and demanded the immediate and unconditional liberation of all the hostages whatever their nationality.

Welcoming all efforts made by the Russian authorities and public figures from both politics and civil society to defuse the crisis without the loss of innocent lives, the Committee of Ministers confirmed its determination to combat terrorism wherever it arises. It called on member states to intensify further their co-operation in this field in the context of the Council of Europe.

Broadcast media

Recommendation Rec (2002) 7

on measures to enhance the protection of the neighbouring rights of broadcasting organisations, 11 September 2002

The Committee of Ministers issued recommendations to member states aimed at protecting the *neighbouring rights* of broadcasting organisations. These rights concern, in particular, the use, redistribution and public showing of their material by third parties. They are detailed in the appendix to the recommendation, as follows:

Rights to be granted

In order to increase the level of protection of the neighbouring rights of broadcasting organisations, member states should grant them the following rights if they have not already done so, bearing in mind that limitations and exceptions to these rights may be provided to the extent permitted by international treaties:

a. the exclusive right to authorise or prohibit the retransmission of their broadcasts by wire or wireless means, whether simultaneous or based on fixations;

b. the exclusive right to authorise or prohibit the fixation of their broadcasts;

c. the exclusive right to authorise or prohibit the direct or indirect reproduction of fixations of their broadcasts in any manner or form;

d. the exclusive right to authorise or prohibit the making available to the public of fixations of their broadcasts, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;

e. the exclusive right to authorise or prohibit the making available to the public through sale or other transfer of ownership of fixations and copies of fixations of their broadcasts;

f. the exclusive right to authorise or prohibit the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

Pre-broadcast programme-carrying signals

Member states should consider taking measures to ensure that broadcasting organisations enjoy adequate protection against any of the acts referred to in *a* to *f* above in relation to their pre-broadcast programme-carrying signals.

Technological measures

Member states should provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures which are used by broadcasting organisations in connection with the exercise of their neighbouring rights and which restrict acts in respect of their broadcasts which are not authorised by the broadcasting organisations concerned or permitted by law.

Rights management information

Member states should provide adequate and effective legal remedies against any person who knowingly removes or alters electronic rights management information without authority, knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right covered by this recommendation. The same should apply if a person knowingly simultaneously retransmits a broadcast or transmits, distributes, imports for distribution, communicates or makes available to the public fixations or copies of broadcasts knowing that electronic rights management information has been removed or altered without authority.

Term of protection

Member states should consider granting to broadcasting organisations a term of protection which lasts, at least,

until the end of a period of 50 years computed from the end of the year in which the broadcast took place.

111th Session of the Committee of Ministers

Strasbourg, 6-7 November 2002

Conclusions of the Chair

With Ms Lydie Polfer, Deputy Prime Minister and Minister for Foreign Affairs of Luxembourg, in the Chair, the 111th Session of the Committee of Ministers focused mainly on four major questions of the Council of Europe's political agenda: the prospect of a Third Council of Europe Summit in the near future, ways of guaranteeing the long-term effectiveness of the European Court of Human Rights, the Council of Europe's contribution to the international effort against terrorism, and the Federal Republic of Yugoslavia's accession to the Council of Europe.

The conclusions and decisions the Ministers reached in their discussions are summarised in the Session Communiqué entitled "Building Europe without dividing lines: the Council of Europe at the service of a democratic, stable and ever more united continent" [see below]. The Communiqué also takes stock of the three other questions addressed during the Session: the adoption of the additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the initiative of the Luxembourg Chairmanship to set up a partial agreement on cultural routes and landscapes, and the Finnish initiative aiming at creating a European Forum for the Roma.

At the start of the session the Ministers also heard the solemn declaration of Deputy Secretary General Ms Maud de Boer-Buquicchio, following her election by the Parliamentary Assembly on 26 June and her taking up of her duties on 1 September 2002.

Maud de Boer-Buquicchio, new Deputy Secretary General of the Council of Europe, seen here with Peter Schieder, President of the Parliamentary Assembly.

The 111th Session was preceded on 6 November in the evening by an informal ministerial meeting during which the Ministers, at the invitation of the Secretary General, discussed the future political priorities of the Council of Europe with the prospect of holding a third summit in the near future and of completion of enlargement of the Organisation. Also, on the morning of 7 November, at the Joint Committee meeting, the Ministers exchanged views with members of the Parliamentary Assembly on the accession of the Federal Republic of Yugoslavia and the proposal to hold a third summit.

The 111th Session was also an opportunity for the Ministers to review the most important developments in the Council of Europe's agenda in recent months. *Inter alia*, the Ministers:

- reaffirmed their condemnation of terrorism in all its forms and their solidarity with the Russian people, referring to the declaration on the hostage-taking in Moscow adopted by the Committee of Ministers on 25 October. In this context, they reiterated their support for the Council of Europe's efforts to help restore the rule of law, human rights and democracy in the Chechen Republic, and renewed their call for a political solution to the conflict;
- expressed their support for the Council of Europe's efforts in favour of democratic stability in the South Caucasus, on the basis, in particular, of the conclusions of the visit by the Chair of the Committee of Ministers to Armenia, Azerbaijan and Georgia from 15 to 18 July. In this context, they took note of the dialogue within the Committee of Ministers on relations between Georgia and the Russian Federation, and of the results of the implementation of the specific procedure for monitoring compliance by Armenia and Azerbaijan with the commitments entered into when they joined the Council of Europe;
- noted with appreciation the in-depth dialogue between the Committee of Ministers and Moldova on the honouring of that country's obligations and commitments towards the Council of Europe and the Organisation's concerted efforts in that respect, with a view to Moldova's future Chairmanship of the Committee of Ministers;
- noted the encouraging results of the implementation of the post-accession strategy defined for Bosnia and Herzegovina, on the basis of the first two reports prepared by the Secretariat in that connection;
- welcomed the continuing progress on the implementation of the Ohrid agreement in "the former Yugoslav Republic of Macedonia" in the context of the general elections held on 15 September, and the contribution made by the Council of Europe in this respect;
- reiterated their support for the Council of Europe's contribution to the implementation of the Stability Pact for South-Eastern Europe and United Nations Security Council Resolution 1244 on Kosovo, marking their appreciation of the work done by the observation mission that supervised the preparation and proper functioning of the local elections held in Kosovo on 26 October;
- reaffirmed their firm position in favour of the universal abolition of the death penalty, noting with satisfaction the fact that the 44 member states of the Council of Europe constitute an area which has been free of the death penalty for more than five years. In this context, they welcomed the commitment already made by 38 member states to abolish capital punishment in all circumstances (by signing or ratifying

Protocol No. 13 to the ECHR), and the historic vote of the Turkish Parliament, on 3 August, in favour of abolishing the death penalty in peacetime, paving the way for Turkey to sign and ratify Protocol No. 6 to the ECHR;

- noted with satisfaction the progress made by the Parliamentary Assembly in its examination of Monaco's application to join the Council of Europe, and hoped that the requisite conditions for completion of the last formalities prior to accession would soon be met;
- deplored the continuing deadlock in relations between Belarus and the international community, while at the same time reiterating their appeal to the authorities in Minsk to set out clearly on the road to genuine political reform and their country's eventual return to the family of European democratic nations, by setting the process of accession to the Council of Europe in motion again as rapidly as possible;
- welcomed the progress made, under the impetus of the Luxembourg Chairmanship, in co-operation between the Council of Europe and the European Union, referring to the conclusions of the quadripartite meeting held on 25 September in Strasbourg. In this context, they particularly marked their appreciation of the contribution made to the work of the Convention on the future of Europe through the symposium of judges on the relationship between the European Convention on Human Rights and the European Union's Charter of Fundamental Rights (Luxembourg, 16 September 2002) and the meeting of the Chair of the Committee of Ministers and the Secretary General with President Giscard d'Estaing (Luxembourg, 16 October 2002);
- welcomed the constant quality of the Council of Europe's co-operation with the OSCE and the United Nations, and the promising prospects for co-operation between the Council of Europe and the European sub-regional organisations opened since the Vilnius Declaration. In this context, they marked their appreciation of the role played by the Council of Europe in the entry into force of the Statute of the International Criminal Court, and of the political message addressed by the Committee of Ministers to the Johannesburg Summit, and instructed their Deputies to take appropriate action following the working meeting between the Council of Europe and the regional co-operation mechanisms, held in Strasbourg on 24 and 25 October, and the debate on co-operation between the Council of Europe and the United Nations, to be held on 21 and 22 November in New York;
- marked their appreciation of the support given by the Luxembourg Chairmanship to the Council of Europe's activities through the successive organisation of a conference on the role and the responsibilities of local authorities in the face of terrorism (Luxembourg, 20-21 September 2002), a conference on "The media in a democratic society: what balance between freedom of expression and the protection of human rights?" (Mondorf-les-Bains, 30 September-1 October 2002) and a European seminar to promote the "Language Portolio" (Mondorf-les-Bains, 17-19 October 2002);
- made, in particular, reference, among recent initiatives aimed at promoting intercultural and inter-religious dialogue, to the Interfaith Meeting on "The Peace of God in the World: Towards peaceful co-existence and collaboration between Monotheistic Religions" (Brussels, 19-20 December 2001), to the Colloquy of the Council of Europe on "Dialogue serving intercultural and inter-religious communication" (Strasbourg, 7-9 October 2002), and to the Baku Conference on the "Role of Religion and Belief in a Democratic Society: Searching for ways to Combat Terrorism and Extremism" (10-11 October 2002), as well as to the initiatives of Armenia to hold a conference in Yerevan (March 2003) and of Azerbaijan on establishing the cultural corridor Europe-Caucasus-Asia, while encouraging co-operation between neighbouring states and in the wider region in this respect;
- welcomed the concerted action of the Chairmanships of the four "L" countries (Latvia, Liechtenstein, Lithuania, Luxembourg) and the results achieved, in particular, in the budgetary area, in the rationalisation of the Committee of Ministers monitoring procedure and in co-operation between the Committee of Ministers and its institutional partners in the Council of Europe (as symbolised by the participation of the President of the Parliamentary Assembly, the President of the European Court of Human Rights and the Council of Europe's Commissioner for Human Rights in the 111th Session of the Committee of Ministers). They encouraged the future Chairs to continue the efforts to strengthen the continuity of the work done by the Committee of Ministers.

At the close of the Session, the Luxembourg Chairmanship handed over office to the new Maltese Chairmanship of the Committee of Ministers. On 7 November in the afternoon, Mr Joe Borg, Minister for Foreign Affairs of Malta, presented his country's programme for the next six months to the Ministers' Deputies.

Building Europe without dividing lines: the Council of Europe at the service of a democratic, stable and ever more united continent

At their 111th Session (Strasbourg, 7 November 2002), under the Chairmanship of Ms Lydie Polfer, Deputy Prime Minister and Minister for Foreign Affairs of Luxembourg, the Ministers concentrated their discussion on four major topics of the Council of Europe political agenda.

1. Third Council of Europe Summit

On the basis of the report prepared by their Deputies (CM (2002) 156 final), the Ministers held a discussion of the proposal to organise a third Council of Europe summit. In this context, they took note of the position expressed by the Parliamentary Assembly on the matter.

The Ministers agreed on the importance of holding a 3rd Summit in the context of an evolving European architecture. Noting that several Council of Europe member states had already declared themselves ready to host the summit in their capital, the Ministers instructed their Deputies to continue their reflection on the various aspects of the 3rd Summit, with a view to defining their position on its theme and its organisational arrangements, at their next session in May 2003.

2. The Court of Human Rights for Europe

The Ministers heard an address by the President of the European Court of Human Rights on the continuing increase in the number of cases brought before the Court. They adopted a declaration in which they assessed progress made since the declaration they adopted at their 109th Session (November 2001) and gave instructions to accelerate ongoing work and to present a set of coherent proposals particularly covering on the one hand measures that could be implemented without delay and on the other any possible amendments to the Convention. The Ministers wished to be in a position to take decisions of substance at their Session in May 2003.

3. International action against terrorism

Recent events, including the hostage taking in Moscow, confirmed the magnitude of the threat and the necessity for increased co-operation between Council of Europe member states in the fight against terrorism which has to remain a top political priority.

On the basis of a report by the Secretary General (SG/Inf (2002) 43), the Ministers assessed progress on each of the three cornerstones they had defined a year before for the Council of Europe contribution to a UN-led international action against terrorism: intensifying legal co-operation to combat terrorism, safeguarding fundamental values, investing in democracy.

The Ministers expressed their appreciation of the work accomplished by the Multidisciplinary Group on Terrorism (GMT). They were pleased to note that, following the instruction they had given at their Vilnius session (May 2002), work to update the European Convention on Suppression of Terrorism had been completed. They approved the content of the draft protocol amending the convention (document CM (2002) 149 revised) and instructed their Deputies to proceed to the adoption of that instrument, in the light of an opinion by the Parliamentary Assembly, as soon as possible in 2003. The Ministers also noted with satisfaction the priority areas for Council of Europe action identified by the GMT and instructed their Deputies to give the necessary follow-up.

The Ministers stressed the importance of the *Guidelines on human rights and the fight against terrorism* adopted on 11 July 2002, which were the first legal international document of this type designed to help states in finding the right balance between the requirements of efficiently protecting society and the preservation of fundamental rights and freedoms.

The Ministers confirmed their strong belief that intercultural and inter-religious dialogue, a welcome process in itself, could indeed contribute both to reducing certain causes of terrorism and the support from which it may benefit. They gave their full support to the new projects launched by the Council of Europe designed to promote such dialogue. Ministers valued efforts made by the North-South Centre to enlarge the scope of this dialogue in the Mediterranean. They also encouraged the Secretary General to pursue contacts with the Arab League and the Organisation of the Islamic Conference (OIC), with a view to developing co-operation in this respect, taking into account the results of the Istanbul Forum. Lastly, they welcomed the efforts and initiatives of the Council of Europe and its member states, as well as the European Union, the OSCE and other institutions, with a view to promoting intercultural and inter-religious dialogue.

4. Accession of the Federal Republic of Yugoslavia

The Ministers took note of Opinion No. 239 adopted by the Parliamentary Assembly on 24 September 2002, in which the Assembly recommends to the Committee of Ministers, on the basis of a series of commitments accepted by the highest Yugoslav authorities, "to invite the Federal Republic of Yugoslavia to become a member of the Council of Europe as soon as the constitutional Charter is adopted by the Parliaments of Serbia and Montenegro". They noted with satisfaction that most of the preparatory work for accession had been carried out by their Deputies.

The Ministers reiterated their common will to see the Federal Republic of Yugoslavia become a member of the Council of Europe. They nevertheless noted with regret that circumstances at present do not yet permit the adoption of an official invitation to the Federal Republic of Yugoslavia to join the Council of Europe.

The Ministers strongly encouraged the authorities of the Federal Republic of Yugoslavia and of Serbia and Montenegro to reach agreement and to adopt rapidly the constitutional Charter.

The Ministers, referring to the relevant correspondence by the Chair of the Committee of Ministers, urged the Federal Republic of Yugoslavia to fulfil its commitment to the principles of the Council of Europe by complying with all its international obligations, in particular by co-operating fully with the International Criminal Tribunal for the former Yugoslavia (ICTY).

The Ministers, reaffirming their commitment to fight racism and xenophobia on the Internet, adopted the Additional Protocol to the Convention on Cybercrime concerning

the criminalisation of acts of a racist and xenophobic nature committed through computer systems and decided to open it for signature during the first Part-session of the Parliamentary Assembly in January 2003.

Lastly, the Ministers:

- took note with satisfaction of the progress made in the ongoing work to reinforce policies on cultural routes and landscapes at national, transfrontier, regional and European levels. Taking into account the willingness expressed by a number of member states to reinforce their policies on co-operation and management of the cultural and natural heritage as well as the readiness indicated by several governments to set up regional, interdependent centres to this effect, the Ministers instructed their Deputies to pursue the examination of the proposal to set up the enlarged partial agreement, currently under consideration, and to make concrete proposals with a view to a decision at their 112th Session in May 2003;
- noted with interest the Finnish initiative concerning a "European Forum for Roma" and invited their Deputies to continue considering this issue, bearing in mind its topical nature, with a view to determining suitable follow-up.

Guidelines on Human Rights and the fight against terrorism

adopted by the Committee of Ministers at its 804th meeting (11 July 2002)

Preface

Since the terrorist attacks of 11 September 2001, the fight against terrorism has become a top political priority. In addition to the sufferings caused and the threats posed to our society for the future, the attacks have been perceived as a direct assault on the fundamental values of human rights, democracy and the rule of law which are our shared heritage.

The Council of Europe lost no time in reacting. It immediately set up a range of initiatives, both on the legal front and in terms of prevention, the central pillar of which was the drawing up of guidelines to help states strike the right note in their responses to terrorism. The temptation for governments and parliaments in countries suffering from terrorist action is to fight fire with fire, setting aside the legal safeguards that exist in a democratic state. But let us be clear about this: while the state has the right to employ to the full its arsenal of legal weapons to repress and prevent terrorist activities, it may not use indiscriminate measures which would only undermine the fundamental values they seek to protect. For a state to react in such a way would be to fall into the trap set by terrorism for democracy and the rule of law.

It is precisely in situations of crisis, such as those brought about by terrorism, that respect for human rights is even more important, and that even greater vigilance is called for.

At the same time, as I have continually stressed since the attacks, the need to respect human rights is in no circumstances an obstacle to the efficient fight against terrorism. It is perfectly possible to reconcile the requirements of defending society and the preservation of fundamental rights and freedoms. The guidelines presented here are intended precisely to aid states in finding the right balance. They are designed to serve as a realistic, practical guide for anti-terrorist policies, legislation and operations which are both effective and respectful of human rights.

These guidelines are the first international legal text on human rights and the fight against terrorism. In adopting them on 11 July 2002, the Committee of Ministers considered it of the utmost importance that they be known and applied by all authorities responsible for the fight against terrorism, both in the member states of the Council of Europe and in those states that are associated with the work of the Council of Europe as observers.

This is the purpose of these guidelines, which will, I believe, constitute a key reference for all those involved in the fight against terrorism.

Walter Schwimmer
Secretary General, Council of Europe
September 2002

Preamble

The Committee of Ministers,

[a] Considering that terrorism seriously jeopardises human rights, threatens democracy, and aims notably to destabilise legitimately constituted governments and to undermine pluralistic civil society;

[b] Unequivocally condemning all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed;

[c] Recalling that a terrorist act can never be excused or justified by citing motives such as human rights and that the abuse of rights is never protected;

[d] Recalling that it is not only possible, but also absolutely necessary, to fight terrorism while respecting human rights, the rule of law and, where applicable, international humanitarian law;

[e] Recalling the need for States to do everything possible, and notably to co-operate, so that the suspected perpetrators, organisers and sponsors of terrorist acts are brought to justice to answer for all the consequences, in particular criminal and civil, of their acts;

[f] Reaffirming the imperative duty of States to protect their populations against possible terrorist acts;

[g] Recalling the necessity for states, notably for reasons of equity and social solidarity, to ensure that victims of terrorist acts can obtain compensation;

[h] Keeping in mind that the fight against terrorism implies long-term measures with a view to preventing the causes of terrorism, by promoting, in particular, cohesion in our societies and a multicultural and inter-religious dialogue;

[i] Reaffirming States' obligation to respect, in their fight against terrorism, the international instruments for the protection of human rights and, for the member states in particular, the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights;

adopts the following guidelines and invites member States to ensure that they are widely disseminated among all authorities responsible for the fight against terrorism.

I. States' obligation to protect everyone against terrorism

States are under the obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, especially the right to life. This positive obligation fully justifies States' fight against terrorism in accordance with the present guidelines.

II. Prohibition of arbitrariness

All measures taken by States to fight terrorism must respect human rights and the principle of the rule of law, while excluding any form of arbitrariness, as well as any discriminatory or racist treatment, and must be subject to appropriate supervision.

III. Lawfulness of anti-terrorist measures

1. All measures taken by States to combat terrorism must be lawful.
2. When a measure restricts human rights, restrictions must be defined as precisely as possible and be necessary and proportionate to the aim pursued.

IV. Absolute prohibition of torture

The use of torture or of inhuman or degrading treatment or punishment is absolutely prohibited, in all circumstances, and in particular during the arrest, questioning and detention of a person suspected of or convicted of terrorist activities, irrespective of the nature of the acts that the person is suspected of or for which he/she was convicted.

V. Collection and processing of personal data by any competent authority in the field of State security

Within the context of the fight against terrorism, the collection and the processing of personal data by any competent authority in the field of State security may interfere with the respect for private life only if such collection and processing, in particular:

(i) are governed by appropriate provisions of domestic law;

(ii) are proportionate to the aim for which the collection and the processing were foreseen;

(iii) may be subject to supervision by an external independent authority.

VI. Measures which interfere with privacy

1. Measures used in the fight against terrorism that interfere with privacy (in particular body searches, house searches, bugging, telephone tapping, surveillance of correspondence and use of undercover agents) must be provided for by law. It must be possible to challenge the lawfulness of these measures before a court.
2. Measures taken to fight terrorism must be planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force and, within this framework, the use of arms by the security forces must be strictly proportionate to the aim of protecting persons against unlawful violence or to the necessity of carrying out a lawful arrest.

VII. Arrest and police custody

1. A person suspected of terrorist activities may only be arrested if there are reasonable suspicions. He/she must be informed of the reasons for the arrest.
2. A person arrested or detained for terrorist activities shall be brought promptly before a judge. Police custody shall be of a reasonable period of time, the length of which must be provided for by law.
3. A person arrested or detained for terrorist activities must be able to challenge the lawfulness of his/her arrest and of his/her police custody before a court.

VIII. Regular supervision of pre-trial detention

A person suspected of terrorist activities and detained pending trial is entitled to regular supervision of the lawfulness of his or her detention by a court.

IX. Legal proceedings

1. A person accused of terrorist activities has the right to a fair hearing, within a reasonable time, by an independent, impartial tribunal established by law.
2. A person accused of terrorist activities benefits from the presumption of innocence.
3. The imperatives of the fight against terrorism may nevertheless justify certain restrictions to the right of defence, in particular with regard to:

(i) the arrangements for access to and contacts with counsel;

(ii) the arrangements for access to the case-file;

(iii) the use of anonymous testimony.

4. Such restrictions to the right of defence must be strictly proportionate to their purpose, and compensatory measures to protect the interests of the accused must be taken so as to maintain the fairness of the proceedings and to ensure that procedural rights are not drained of their substance.

X. Penalties incurred

1. The penalties incurred by a person accused of terrorist activities must be provided for by law for any action or omission which constituted a criminal offence at the time when it was committed; no heavier penalty may be imposed than the one that was applicable at the time when the criminal offence was committed.
2. Under no circumstances may a person convicted of terrorist activities be sentenced to the death penalty; in the event of such a sentence being imposed, it may not be carried out.

XI. Detention

1. A person deprived of his/her liberty for terrorist activities must in all circumstances be treated with due respect for human dignity.
2. The imperatives of the fight against terrorism may nevertheless require that a person deprived of his/her liberty for terrorist activities be submitted to more severe restrictions than those applied to other prisoners, in particular with regard to:

(i) the regulations concerning communications and surveillance of correspondence, including that between counsel and his/her client;

(ii) placing persons deprived of their liberty for terrorist activities in specially secured quarters;

(iii) the separation of such persons within a prison or among different prisons, on condition that the measure taken is proportionate to the aim to be achieved.

XII. Asylum, return ("refoulement") and expulsion

1. All requests for asylum must be dealt with on an individual basis. An effective remedy must lie against the decision taken. However, when the State has serious grounds to believe that the person who seeks to be granted asylum has participated in terrorist activities, refugee status must be refused to that person.
2. It is the duty of a State that has received a request for asylum to ensure that the possible return ("refoulement") of the applicant to his/her country of origin or to another country will not expose him/her to the death penalty, to torture or to inhuman or degrading treatment or punishment. The same applies to expulsion.
3. Collective expulsion of aliens is prohibited.
4. In all cases, the enforcement of the expulsion or return ("refoulement") order must be carried out with respect for the physical integrity and for the dignity of the person concerned, avoiding any inhuman or degrading treatment.

XIII. Extradition

1. Extradition is an essential procedure for effective international co-operation in the fight against terrorism.
2. The extradition of a person to a country where he/she risks being sentenced to the death penalty may not be granted. A requested State may however grant an extradition if it has obtained adequate guarantees that:

(i) the person whose extradition has been requested will not be sentenced to death; or

(ii) in the event of such a sentence being imposed, it will not be carried out.

3. Extradition may not be granted when there is serious reason to believe that:

(i) the person whose extradition has been requested will be subjected to torture or to inhuman or degrading treatment or punishment;

(ii) the extradition request has been made for the purpose of prosecuting or punishing a person on account of his/her race, religion, nationality or political opinions, or that that person's position risks being prejudiced for any of these reasons.

4. When the person whose extradition has been requested makes out an arguable case that he/she has suffered or risks suffering a flagrant denial of justice in the requesting State, the requested State must consider the well-foundedness of that argument before deciding whether to grant extradition.

XIV. Right to property

The use of the property of persons or organisations suspected of terrorist activities may be suspended or limited, notably by such measures as freezing orders or seizures, by

the relevant authorities. The owners of the property have the possibility to challenge the lawfulness of such a decision before a court.

XV. Possible derogations

1. When the fight against terrorism takes place in a situation of war or public emergency which threatens the life of the nation, a State may adopt measures temporarily derogating from certain obligations ensuing from the international instruments of protection of human rights, to the extent strictly required by the exigencies of the situation, as well as within the limits and under the conditions fixed by international law. The State must notify the competent authorities of the adoption of such measures in accordance with the relevant international instruments.
2. States may never, however, and whatever the acts of the person suspected of terrorist activities, or convicted of such activities, derogate from the right to life as guaranteed by these international instruments, from the prohibition against torture or inhuman or degrading treatment or punishment, from the principle of legality of sentences and of measures, nor from the ban on the retrospective effect of criminal law.
3. The circumstances which led to the adoption of such derogations need to be reassessed on a regular basis with the purpose of lifting these derogations as soon as these circumstances no longer exist.

XVI. Respect for peremptory norms of international law and for international humanitarian law

In their fight against terrorism, States may never act in breach of peremptory norms of international law nor in breach of international humanitarian law, where applicable.

XVII. Compensation for victims of terrorist acts

When comprensation is not fully available from other sources, in particular through the confiscation of the property of the perpetrators, organisers and sponsors of terrorist acts, the State must contribute to the compensation of the victims of attacks that took place on its territory, as far as their person or their health is concerned.

The texts of reference used for the preparation of the guidelines on human rights and the fight against terrorism can be found in PDF format on the Council of Europe human rights Internet site at:

http://humanrights.coe.int

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

Violence against women

Recommendation 1582 (2002) on domestic violence against women – 27 September 2002

The Assembly considers acts of domestic violence, thought to be the major cause of death and invalidity for women between 16 and 44 years of age, to be criminal acts and consequently called on the Council of Europe member states to recognise their obligation to prevent, investigate and punish such violence and protect victims.

Domestic violence is often hidden, making effective awareness-raising policies and information campaigns necessary. Therefore the Assembly urged the Council of Europe member states to:

- provide legal advice and assistance to victims; ensure victims' protection; set up support structures and grant immigrant women an independent right of residence;

- obtain clear information on the subject; promote co-operation within the administration and with NGOs and other organisations; implement training programmes for all professionals dealing with victims of domestic violence and its consequences; educate and inform the general public, the perpetrators in particular, using all forms of media;

- provide funding for social services; introduce effective legal provisions to prohibit all forms of domestic violence, which should be treated as a serious criminal offence in all its forms, including conjugal rape.

The Assembly invited the Committee of Ministers to launch a European Year Against Domestic Violence, which would highlight this problem at European level and incite European governments to undertake concrete action to combat domestic violence.

Children's rights

Resolution 1307 (2002) on the sexual exploitation of children: zero tolerance – 27 September 2002

The Assembly, noting that the scourge of sexual exploitation of minors, far from being halted in its expansion, is unremitting and knows no borders, called upon the Council of Europe member states to adopt a "zero tolerance" policy on crime against children. It stressed that new legal instruments are unnecessary and that Council of Europe member states should adopt and apply those that already exist.

The Assembly therefore invited all Council of Europe member states to declare the combating of sexual exploitation of children a national objective, and in consequence to adopt legislation for the protection of children against sexual exploitation in co-operation with the Council of Europe group of specialists and to ratify the Council of Europe's recent Convention on Cybercrime, aimed particularly at child pornography on the Internet.

The Assembly called on all states to apply a "zero tolerance" approach to all crimes or attempted crimes; to arrest criminals and apply penalties severe enough to fit the crime; to prevent further offences, notably through compulsory treatment for offenders and the banning of convicted criminals from certain occupations which involve contact with children; to give priority attention to the rights and views of child victims; to set up national "observatories" of sexual crimes and abuses against children and appoint a children's rights commissioner; to promote public awareness of the problem; to acquire the means to combat computer crime, especially child pornography and to co-operate fully with Europol on these issues.

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.

Iraq

Resolution 1302 (2002) on the threat of military action against Iraq – 26 September 2002

The Parliamentary Assembly noted with satisfaction Iraq's acceptance of the unconditional return of the UN disarmament inspectors as a first step towards ensuring that Iraq no longer possesses weapons of mass destruction, but expressed reservations about the intention of the Iraqi authorities to honour their promises.

The Assembly emphasised its conviction that any armed conflict must be avoided prior to examination of the inspectors' report by the Security Council and welcomed the stance taken by the Arab countries which have put pressure on the Iraqi authorities to accept the UN's demands.

It disapproves of the United States' willingness to engage armed conflict without a Security Council mandate, an attitude in accordance neither with the principles of international law nor with the objectives of the Council of Europe, to which the United States, an Observer State, is expected to subscribe.

Unilateral action by the United States would be likely to destabilise peace severely, undermine the authority of the United Nations, lead to divisions within democratic countries and compromise the international community's cohesion in the fight against terrorism.

The Assembly called on the Baghdad authorities to co-operate fully with the UN inspectors and disarmament experts and urged all Council of Europe member states, observers and special guests to step up their efforts to avoid a new war in Iraq and to find a solution to the Iraqi problem within and through the United Nations' principles and mechanisms. It further called upon the members of the United Nations Security Council to resort to military intervention only after having exhausted all other approaches, and only if a flagrant violation of the United Nations resolutions is confirmed by the inspectors' future report.

Belarus

Resolution 1306 (2002) on the situation in Belarus – 27 September 2002

The Parliamentary Assembly observed that, despite some progress in a number of areas, Belarus at present shows severe democratic deficits and does not yet meet the Council of Europe's relevant standards. The electoral process is imperfect, human rights violations continue, civil society remains embryonic, the independence of the judiciary is doubtful, local government is underdeveloped, Parliament has limited powers and relations with foreign powers, the EU and other international organisations remain tense.

The Assembly noted with satisfaction the release from prison of the opposition politician Mr Andrei Klimov, but expressed concern about the treatment of political opponents by state authorities in general. In addition, the situation of independent trade unions remains worrying and little progress had been made on the new draft media law.

The Assembly observed that a new awareness seems to be developing in Belarus on the question of the abolition of the death penalty.

It concluded that for the time being, full membership of Belarus in the Council of Europe cannot be put on the agenda, pending future developments regarding the competences of the Belarussian Parliament and its commitment to fostering democratic development in Belarus.

Monitoring

Resolution 1305 (2002) on honouring of obligations and commitments by Azerbaijan – 26 September 2002

The Assembly welcomed the progress made by Azerbaijan since its accession, *inter alia*, in the field of the signature and ratification of conventions and legal reforms, but pointed out several areas where further efforts must be made.

The Assembly stressed in particular the need to step up measures to fight corruption, set up local self-government structures, correct the preponderance of the executive over Parliament and the administration, set the flawed electoral system right, give the opposition representation and prevent recurring violations of human rights regarding freedom of the media, freedom of expression and association, and liberty and security of person. It reiterated that holding political prisoners is totally unacceptable in a Council of Europe member state. The deadlocked negotiations on the Nagorno-Karabakh conflict is a further obstacle to concluding the monitoring procedure.

The Assembly urged the Azerbaijani authorities to speedily improve media legislation, the electoral code and to define and implement a decentralisation strategy aimed at increasing local governments' competences, responsibilities and resources with a view to honouring all of its obligations and commitments as a member state of the Council of Europe.

Resolution 1304 (2002) on honouring of obligations and commitments by Armenia – 26 September 2002

The Assembly acknowledged that Armenia has made substantial progress towards honouring the obligations and commitments, in particular on the matter of conventions, but said that steps must still be taken in several areas to meet Council of Europe standards. In particular, Armenia's failure to ratify Protocol No. 6 to the European Convention on Human Rights – which abolishes the death penalty in peacetime – within a year of its accession is totally unacceptable, as is the National Assembly's decision to maintain capital punishment in certain cases.

While noting there have been no actual executions since 1991, the Assembly warned Armenia that if it has not ratified Protocol No. 6 and removed the death penalty from its Criminal Code by June 2003, it may annul the credentials of the Armenian parliamentary delegation.

In addition, the Assembly called upon the Armenian authorities to find a peaceful solution to the Nagorno-Karabakh conflict, pursue reform of the judicial system, revise

the Administrative Code and establish an ombudsman, amend the Broadcasting Law concerning the allocation of radio and TV broadcasting licenses, register Jehovah's Witnesses and introduce an alternative to military service, fight corruption and, last but not least, to promote the involvement of women in the political process.

Resolution 1303 (2002) on the functioning of democratic institutions in Moldova – 26 September 2002

The Assembly, following up on events threatening stability and the political climate in Moldova, was pleased to note the proposals put forward by Moldova's political forces, including members of the parliamentary opposition, to end the crisis. The Moldovan authorities must nevertheless immediately take steps to fully satisfy all of its commitments.

The Assembly welcomed the registration of the Metropolitan Church of Bessarabia, the moratorium on reforms concerning the teaching of and status of the Russian language and the suspension of judicial proceedings against members of parliament from the PPCD, but called on the authorities to implement to the letter decisions regarding freedom of the media, freedom of religion, freedom of assembly, the rights of parliamentarians, the autonomy of local authorities and the independence of judicial institutions.

It observed, however, that other measures concerning broadcasting legislation and the status of members of parliament continue to draw comment and controversy. It further regretted that the investigation into the disappearance of Vlad Cubreacov – who has since reappeared – has failed to produce results.

The Assembly called upon the Moldovan authorities to continue its investigation into this case, urged the government to consult widely with society and the opposition before carrying out any constitutional reform and warned the authorities against blocking revision of the electoral law or taking any other measures in contradiction with Council of Europe standards.

Minorities

Resolution 1301 (2002) on the protection of minorities in Belgium – 26 September 2002

The Parliamentary Assembly called upon the Kingdom of Belgium to ratify the Framework Convention on the Protection of National Minorities without delay and warned against a too broadly worded reservation undermining its contents.

The Assembly, in agreement with the Venice Commission, considered as minorities in Belgium within the context of the Framework Convention: at state level, the German-speaking community; at regional level, the French-speakers in the Dutch-language Region and in the German-language Region, and the Dutch-speakers and German-speakers in the French-language Region.

The Assembly further recommended that the Belgian authorities ratify Protocol No. 12 to the European Convention on Human Rights in the near future, sign and ratify the European Charter for Regional and Minority Languages and that effective measures be taken to further tolerance and dialogue between the language groups and their respective cultures.

It concluded by urging the Belgian authorities to apply the protection measures provided for in the Framework Convention at all levels of the Federal State and to fully implement the judgment of the European Court of Human Rights of 23 July 1968, in particular as regards the provision of linguistic facilities for French-speaking families in the Brussels periphery.

Order No. 583 (2002) on the Protection of minorities in Belgium – 26 September 2002

The Parliamentary Assembly, with reference to Resolution 1301 (2002) on the protection of minorities in Belgium, instructed its Committee on Legal Affairs and Human Rights to follow, in the framework of Resolution 1268 (2002) on the implementation of decisions of the European Court of Human Rights, the implementation of the Court's judgment of 23 July 1968.

The Kaliningrad Region

Recommendation 1579 (2002) on the enlargement of the European Union and the Kaliningrad Region – 25 September 2002; and Resolution 1298 (2002) on ensuring a prosperous future for the Kaliningrad Region: the need for European solidarity – 25 September 2002

The Parliamentary Assembly discussed the future of the Kaliningrad Region, a Russian enclave bordering on the Baltic Sea, Lithuania and Poland, and thus not adjacent to other Russian territory, in view of EU enlargement to include Lithuania and Poland, among others. Enlargement will extend the application of the Schengen Agreement to the new members, leading to changes in the existing visa regimes of these countries with neighbouring states.

In its Recommendation, the Assembly said that favourable travel regimes among member states of the Council of Europe should not be reversed through their accession to the Schengen Agreement. It also recommended that the three countries concerned negotiate interim and long-term facilitated visa and travel regimes for Russian citizens and that border crossings be modernised, adequately equipped and sufficient in number.

The Parliamentary Assembly considered Kaliningrad's unique geographical position to be a singular opportunity for Europe to build economic prosperity and political stability in the Baltic Sea Region and beyond, but warned against facilitating cross-border crime in the region.

In its Resolution, the Assembly welcomed the Russian Authorities' efforts to ameliorate the economic situation in the Kaliningrad Region, notably through the establishment of a Special Economic Zone and the promotion of regional co-operation, but expressed the view that these initiatives could be improved on. It further suggested the establishment by

the major European investment banks of an insurance fund to protect investors in Kaliningrad, and increased EU and other development aid to the region.

Georgia

Recommendation 1580 (2002) on the situation in Georgia and the consequences for the stability of the Caucasus region – 25 September 2002

The Assembly considered that the Council of Europe must intensify its involvement in the Caucasus and work actively with the countries concerned in order to give new impetus to the peace and stabilisation processes in the region. It recommended that the peace-keeping and law enforcement efforts of Georgia and the Russian Federation on their respective territories along their common border be pursued further.

It welcomed an agreement between the Russian and Georgian delegations on the need to send a joint fact-finding mission of the PACE to the region, to report to the Bureau of the Assembly, and called upon both countries to work towards peace, stressing that the Russian Federation must refrain from interfering in the internal affaires of Georgia and from launching any military action on Georgian territory, and that Georgia must take steps to fight terrorism in co-operation with the international community.

The Assembly further recommended opening a Council of Europe office in the Georgian capital Tbilisi as soon as possible, developing co-operation with the EU in settling the conflicts in Abkhazia and South Ossetia and that strict measures be taken by Georgia to combat corruption and criminal activities on its territory.

New members

Opinion No. 239 (2002) on the Federal Republic of Yugoslavia's application for membership of the Council of Europe – 24 September 2002

The Parliamentary Assembly voted in favour of inviting the Federal Republic of Yugoslavia (FRY) to become a member of the Council of Europe as soon as the Constitutional Charter, currently in the drafting stages, is adopted by the Parliaments of Serbia and Montenegro.

The Assembly considered the FRY to have made considerable progress towards democracy and political pluralism and urged the FRY authorities to continue reforms in order to honour the commitments Council of Europe membership will entail.

It highlighted a series of legislative reforms, concerning in particular the Constitutional Charter, the army, the police and broadcasting and electoral law, to be undertaken in this respect, and, in terms of human rights, pinpointed better co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY), judicial reform and the status of conscientious objectors as priority areas.

With regard to Kosovo, the Assembly called on the FRY to undertake to settle disputes over the future status of the area by peaceful means, to renounce any use of force and to contribute to the efforts aimed at building a democratic, multiethnic entity in Kosovo with a view to creating a political climate conducive to reflection and dialogue on its future status. The Assembly also considered that the population of Kosovo should enjoy the full protection of the European Convention on Human Rights and other Council of Europe conventions, including their supervisory mechanisms, and recommended that the Council of Europe explore the means to achieve this with the Belgrade authorities and UNMIK.

Democracy and legal development

Cybercrime

Opinion No. 240 (2002) on the Draft additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems – 27 September 2002

The Parliamentary Assembly welcomed the large number of signatures of the Convention on Cybercrime (thirty-three signatures and one ratification), to which it gave its political support, and trusts that it will soon enter into force.

The Assembly is aware that the text adopted by the European Committee on Crime Problems is a compromise between differing legal and cultural traditions, which strikes a broadly satisfactory balance between combating racism and freedom of expression. It could not, however, go along with the Committee's refusal to include unlawful hosting, a concept which it defended in its opinion and repeated in its recommendation.

It was pleased to observe that the protocol, if the current version is confirmed, will be the first international instrument to penalise negationism, but recommended several amendments to the draft protocol, especially concerning unlawful hosting and reservations in this respect.

International Criminal Court

Recommendation 1581 (2002) on the risks for the integrity of the Statute of the International Criminal Court; and Resolution 1300 (2002) on the risks for the integrity of the Statute of the International Criminal Court– 25 September 2002

The Assembly warmly welcomed the entry into force in July 2002 of the Rome Statute of the International Criminal Court (ICC), which represents a decisive step towards achieving justice and ending impunity for the most serious crimes known to mankind – war crimes, crimes against humanity and genocide.

It is, however, greatly concerned by the efforts of some states to undermine the integrity of the ICC Treaty and especially to conclude bilateral "exemption agreements" aimed at exempting their officials, military personnel and nationals from the jurisdiction of the Court.

Accordingly, it called upon all member and observer states to sign and ratify the Rome Statute of the ICC, not to enter into any bilateral "exemption agreements", and urged the Council of Europe member states to establish a joint position on the matter to ensure the efficient functioning of the ICC.

European construction

Recommendation 1578 (2002) on the Council of Europe and the new issues involved in building Europe – 24 September 2002

The debate on the future of Europe launched by Declaration No. 23 appended to the Treaty of Nice and the setting up of the Convention, at the Laeken Summit, will bring about major changes in Europe's institutional architecture.

In this context, the Council of Europe must reassert its primary aim which is to ensure peaceful unification and democratic stability in Europe, while consolidating its role as a pan-European political forum.

The Assembly noted that the Council of Europe is a highly effective and indeed irreplaceable forum for political contact between the EU member countries and countries that will probably not join the European Union. It is the only truly European and continent-wide organisation in which all European countries co-operate on an equal footing. However, it deeply regretted that its achievements are not better known internationally.

The Parliamentary Assembly consequently recommended shifting the main focus of the Council of Europe's activities to the area in which it has the most to offer: democratic security. Immediate priority should be given to accession of the European Union to the statute of the Council of Europe; avoiding duplication of activities developed by the European Union and the Council of Europe; institutionalising the holding of Council of Europe summits; and setting up of a "troika" comprising high-level representatives of the Council of Europe, the European Union and the OSCE.

Clandestine migration

Recommendation 1577 (2002) on the creation of a charter of intent on clandestine migration – 23 September 2002

The Assembly expressed its deep concern over the increasing number of migrants who die while attempting to enter the territory of the member states illegally or who live in often extremely dangerous and inhuman conditions before, during and after their illegal entry into Europe. It noted with concern the absence of an international instrument addressing the phenomenon of clandestine migration as a whole and deplored that little attention is paid to the situation of irregular migrants in transit and destination countries, including the protection of the rights they are entitled to under several international human rights instruments.

The Assembly put forward the view that a single and comprehensive pan-European instrument involving the European Union and all Council of Europe member states is necessary to address the root causes of clandestine migration, its modes, including trafficking and smuggling, the rights of clandestine migrants and co-operation between countries of origin, transit and destination in order to check illegal inflows of migrants and guarantee the welfare of host communities and clandestine migrants. Such an instrument should also include effective sanctions against employers of clandestine migrants and information campaigns in the countries of origin.

European Court of Human Rights

Turkey

Recommendation 1576 (2002) on the implementation of decisions of the European Court of Human Rights by Turkey; and Resolution 1297 (2002) on the implementation of decisions of the European Court of Human Rights by Turkey – 23 September 2002

The Assembly welcomed the recent constitutional and legal changes in Turkey for the prevention of further violations of the European Convention on Human Rights, noting in particular the introduction of procedures for the review of detention in police custody and reforms aimed at ensuring that the security forces and other law enforcement authorities respect the Convention in all circumstances. It also noted the changes relating to the scope of freedom of expression and freedom of association, in particular those relating to the activities of political parties.

However, it stressed that a number of important problems remain outstanding. The Assembly therefore reiterated its calls upon the Turkish authorities to ensure rapidly that payments of just satisfaction respect the Court's judgments; that immediate effect be given to legislation on the reopening of judicial proceedings; that the respect for freedom of expression is ensured, notably in the application of the anti-terror legislation; that further progress is made in preventing new violations notably of Articles 2 and 3 of the Convention (respect for life and prohibition of torture) through the training of the security forces and the development of effective criminal and civil remedies; and that concrete measures are adopted in the cases of Cyprus v. Turkey, Zana v. Turkey and Loizidou v. Turkey.

In case these requests are not satisfied, the Assembly stated that it would consider the consequences of such a continuing refusal at its session in April 2003.

Statements of the Parliamentary Assembly President

Serbia: invalidated presidential elections

Peter Schieder, President of the Council of Europe Parliamentary Assembly, made the following statement in reaction to the second round of the Serbian presidential election held on 13 October 2002:

"It is regrettable that yesterday's election run-off failed to bring about a change in the office of the Serbian President and thus conclude the electoral circle that started after the events of October 2000.

[…]

Yet, we need to say clearly that people should take their democratic responsibilities seriously. If Serbs want to defend and build upon the achievements of 5 October they should turn up and vote when they have an opportunity to democratically elect their leaders. This was, after all, the objective of the struggle for which they received so much support and admiration from the world at large."

New presidential elections are to be held within the next three months.

Commuting of Öcalan's death sentence

Peter Schieder welcomed the decision of the Turkish State Security Court to commute the death sentence of Abdullah Öcalan to life imprisonment.

"This was a legal decision of huge political significance. It follows logically the recent constitutional and legal changes which abolished the death penalty in times of peace and brought several key aspects of Turkish legislation into line with Council of Europe standards," he said.

"Armenia and Russia are now the only two Council of Europe countries that have not yet formally abolished capital punishment. Even though there have been no executions since their accession to our Organisation, we expect that this essential obligation resulting from Council of Europe membership will soon be confirmed by a vote in the two Parliaments."

Executions in Japan

Peter Schieder made the following statement:

"I have just learned that Yoshiteru Hamada and Tatsuya Tamoto were executed in Japan yesterday. I condemn these executions utterly. The death penalty is cruel and futile, and has no place in a civilised society. It is particularly horrifying that these men were executed apparently without their families knowing the date in advance.

The Council of Europe and its 44 member states are unequivocally opposed to the death penalty. As an Observer to the Organisation, Japan is expected to share the same fundamental values and principles. In June last year, the Assembly asked Japan to institute a moratorium on executions and to improve conditions on "death row" or face having its observer status called into question. These executions appear to show that Japan is determined to ignore this request.

But death can never be a question of diplomatic status. I appeal to the Japanese authorities to cease this barbaric practice, not only because of what Europeans may think or do, but because it is inhuman, uncivilised and wrong."

Assembly Resolution 1253 (2001) on abolition of the death penalty in Council of Europe observer states can be found on the Parliamentary Assembly's Internet site.

International election observation missions

Montenegrin parliamentary elections

The parliamentary elections in Montenegro conducted on 20 October 2002 were generally in accordance with international standards, concluded the International Election Observation Mission. However, the observers also noted that several shortcomings in the legal framework persisted and that new challenges raised additional concerns, referring to the controversy surrounding the unilateral adoption of several contentious amendments – later repealed – to the election and media laws in July after the announcements of the elections.

The elections were marked by a broad participation of political parties and coalitions, a calm campaign and adequate representation by political parties on election commissions at all levels. While state media coverage of the campaign was more balanced than in previous elections, private media largely failed to provide unbiased reporting.

General elections in Bosnia and Herzegovina

The general elections in Bosnia and Herzegovina held on 5 October 2002 were largely in line with international standards, considering the country's unique constitutional framework, concluded the International Election Observation Mission. Over 400 international observers monitored the first election administered by the authorities of Bosnia and Herzegovina since the 1995 Dayton Peace Agreement.

A broad and active campaign involved 57 political parties, candidates were able to move unhindered and they engaged in more cross-entity campaign activities than during previous elections. Nationalist rhetoric was less overt in this campaign but remained an underlying issue. An active print and electronic media provided extensive and diverse coverage.

Latvian parliamentary elections

The Latvian parliamentary elections held on 5 October 2000 were conducted in accordance with international standards, although some issues remain to be addressed.

The international observers noted that the election was marked by a healthy level of political pluralism and increased transparency of the electoral process. There was a high degree of confidence by voters and candidates in the election administration.

"FYROM" parliamentary elections

The parliamentary elections in the former Yugoslav Republic of Macedonia held on 15 September 2002 were largely in line with international standards.

Among the positive aspects of the electoral process were the new election system, the exemplary work of the State Election Commission and the electoral campaign which was well organised and appropriately policed. Election day was characterised by a high turnout of voters, few and isolated incidents of violence, and in general an orderly process, except for a high incidence of group voting.

However, the observers expressed concern about a number of violent incidents, including the killing of police officers, hostage taking and attacks on party offices and media representatives, which contributed to a tense campaign atmosphere. The media as a whole offered a wide range of information and views, but state media coverage was biased in favour of the incumbents.

Visits

Visit to Chechnya

Members of the Joint Working Group on Chechnya – which brings together members of the Russian State Duma and the Council of Europe Parliamentary Assembly – visited the Chechen Republic from 3 to 4 September 2002.

In Grozny, the delegation met members of the Chechen Administration, prosecutors, judges and NGOs and returned refugees and internally displaced persons.

In Moscow, members of the delegation took part in a meeting of the Consultative Council, composed of a cross-section of Chechens from all parts of society committed to finding a peaceful solution to the conflict.

Hearings

Euthanasia in Europe

The Social, Health and Family Affairs Committee of the Council of Europe Parliamentary Assembly held a hearing on euthanasia in Paris on 25 October 2002.

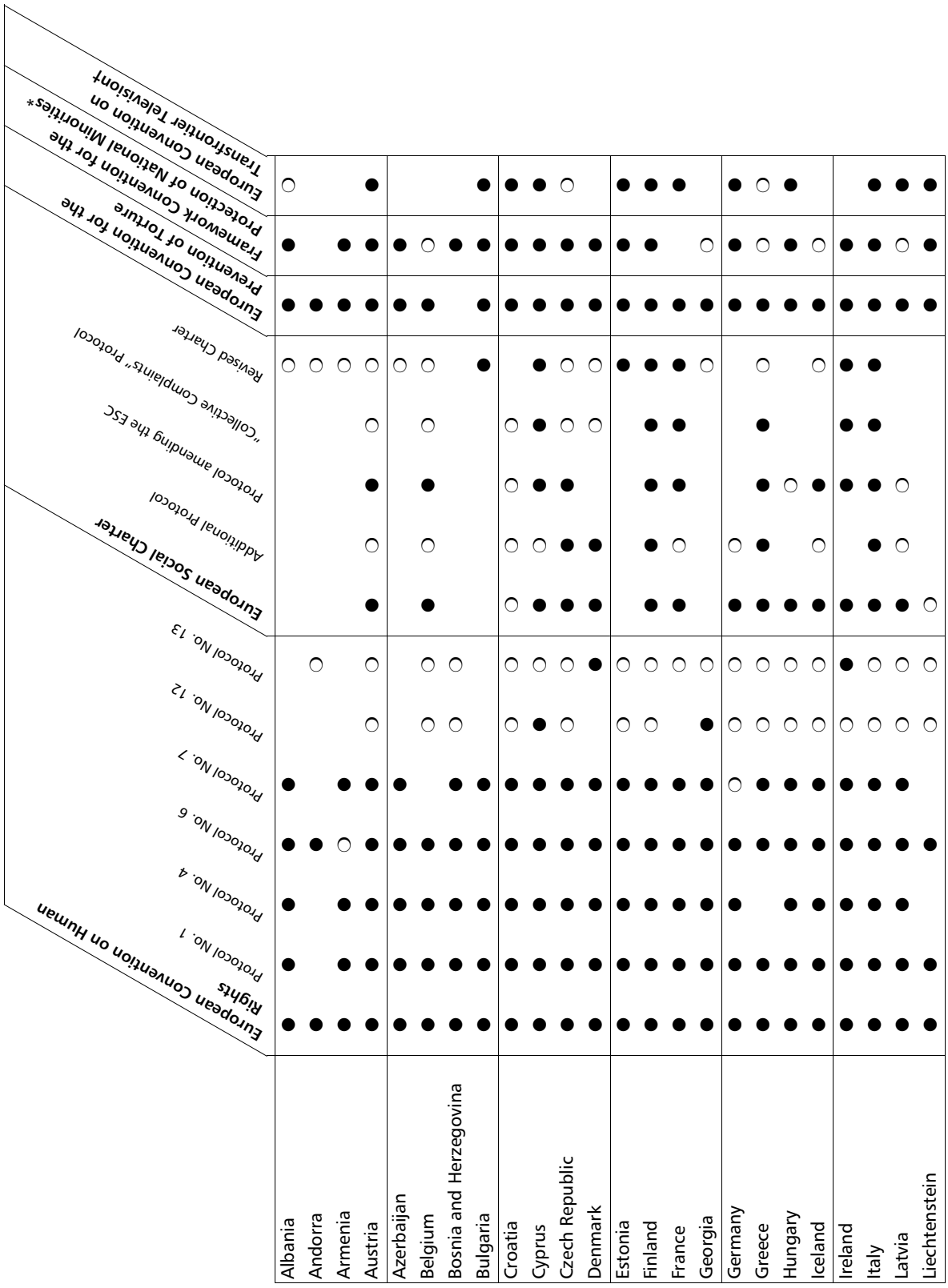
The Netherlands and Belgium have already enacted legislation whereby euthanasia, in certain circumstances, is no longer a crime, prompting the committee to hold an exchange of views on the question, which has divided political, medical and intellectual opinion.

The audition gave an overview of current tendencies in the Council of Europe's 44 member states, considered the implementation of the Belgian and Dutch laws, assessed the extent to which euthanasia is practised in Europe and evaluated the need for legislation. The conclusions will form the basis of a report to be debated by the Parliamentary Assembly in 2003.

For more information on these and other topics, see:

Assembly Internet site: http://assembly.coe.int/

Appendix 1
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	Protocol No. 13	European Social Charter	Additional Protocol	Protocol amending the ESC	"Collective Complaints" Protocol	Revised Charter	European Convention for the Prevention of Torture	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 October 2002

* Convention also ratified by Yugoslavia

† Convention also ratified by the Holy See

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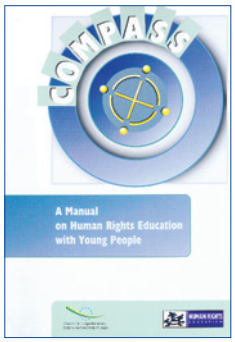

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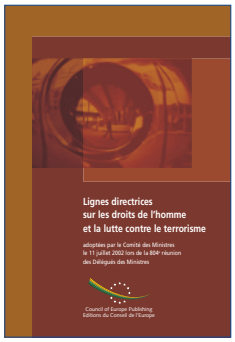

Guidelines on human rights and the fight against terrorism *(2002)*

The guidelines reaffirm states' obligation to protect everyone against terrorism, and reiterate the need to avoid arbitrariness. They also stress that all measures taken by states to combat terrorism must be lawful, and that torture must be prohibited. The framework set out in the guidelines concerns, in particular, the collecting and processing of personal data, measures which interfere with privacy, arrest, police custody and pre-trial detention, legal proceedings, extradition and compensation of victims.

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A5 – 50 pages – ISBN 92-871-5020-6 – 8 €/12 US$

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