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Contents

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European Convention on Human Rights

Entry into force

Protocol No. 13 to the European Convention on Human Rights, abolishing the death penalty in all circumstances, entered into force on 1 July 2003. Its ratification by Andorra (26 March 2003) brought the number of ratifications to ten, the figure required for it to be implemented in the contracting states. As of 1 July it entered into force in Andorra, Bulgaria, Croatia, Cyprus, Denmark, Ireland, Liechtenstein, Malta, Switzerland and Ukraine. A further nine states have also ratified the protocol.

Signatures and ratifications

Armenia

On 29 September 2003 Armenia ratified Protocol No. 6 to the European Convention on Human Rights.

Bosnia and Herzegovina

On 29 July 2003 Bosnia and Herzegovina ratified Protocol Nos. 12 and 13 to the European Convention on Human Rights.

Hungary

On 16 July 2003 Hungary ratified Protocol No. 13 to the European Convention on Human Rights.

Portugal

On 3 October 2003 Portugal ratified Protocol No. 13 to the European Convention on Human Rights.

United Kingdom

On 10 October 2003 the United Kingdom ratified Protocol No. 13 to the European Convention on Human Rights.

Reservations and declarations

Denmark

Protocol No. 13

Partial withdrawal of a declaration, contained in a letter from the Permanent Representative of Denmark dated 23 July 2003, and registered at the Secretariat General on 25 July 2003 – Or. Engl.

The Government of Denmark declares that it withdraws the declaration of non-application of Protocol No. 13 to the Faroe Islands (the non-application for Greenland is still valid).

United Kingdom

Protocol No. 13

Declaration contained in a letter from the Permanent Representative of the United Kingdom, dated 10 October 2003, deposited with the instrument of ratification on 10 October 2003 – Or. Engl.

In accordance with Article 4 of the Protocol, the Government of the United Kingdom declares that the United Kingdom will initially apply the Protocol to the metropolitan area of Great Britain and Northern Ireland.

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/.

European Court of Human Rights

Introduction

Between 1 July and 31 October 2003, the Court dealt with 6220 (6322) cases:
- 243 (254) judgments delivered (provisional figures)
- 264 (275) applications declared admissible
- 5080 (5104) applications declared inadmissible
- 136 (164) applications struck off the list
- 497 (525) applications communicated to governments

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 a selection of chamber judgments are presented. Exhaustive information can be found in Court's press releases and monthly case law information notes, published on its web site, and, for more targeted researches, in the Hudoc database of the case law of the Convention:

http://www.echr.coe.int/

http://hudoc.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

Sahin v. Germany
Judgment of 8 July 2003

Alleged violations of: Article 8 (right to respect for family life) and Article 14 (prohibition of discrimination) taken together with Article 8

Principal facts and complaints

The applicant is the father of a child born out of wedlock, for whom he acknowledged paternity and parental duties. After he separated from the mother, this latter prohibited any contact between him and his daughter. He applied to the courts for a decision granting him a right of access to the child, but his request was dismissed on the basis of a section of the civil code providing that fathers of children born out of wedlock could only have access if the child's mother agreed or they obtained a court ruling that such contact was in the child's best interest. This interest was not recognised in the applicant's case.

Decision of the Court

Article 8

The Court considered that the competent German courts had adduced relevant reasons to justify their decisions refusing access, namely the serious tensions between the parents which were communicated to the child and the risk that visits would affect her and interfere with her undisturbed development. To determine whether these reasons were sufficient, the Court sought to determine whether the decision-making process, seen as a whole, had provided the applicant with the requisite protection of his interests. In view of the fact that the applicant had been placed in a position enabling him to put forward all arguments in favour of obtaining a visiting arrangement and he had also had access to all relevant information which was relied on by the courts - including the expert opinion of a psychologist - the Court concluded that there had been no violation of Article 8.

Article 14 taken together with Article 8

The question before the Court was whether the law had been applied in such a way as to result in an unjustified difference of treatment between the applicant and divorced fathers. Although they were convinced of the applicant's genuine affection to his daughter, the German courts had found that only special circumstances could justify the assumption that personal contacts with the father would have permanently beneficial effects on the child's well-being. In this manner, they placed a burden on him that was heavier than the one on divorced fathers. The Court could not discern very weighty reason for this difference in treatment and concluded accordingly that there had been a violation of Article 14 taken together with Article 8.

The Court awarded the applicant 20,000 euros for non-pecuniary damage and certain sums for costs and expenses.

Sommerfeld v. Germany
Judgment of 8 July 2003

Alleged violations of: Article 8 (right to respect for family life) and Article 14 (prohibition of discrimination) taken together with Article 8

Principal facts and complaints

As in the preceding case, the applicant was the father of a child born out of wedlock, for whom he acknowledged paternity and with whom he lived during five years. Separated from the mother, the latter then prohibited any contact with the child. Four years later, the right for access he requested was refused by the Youth Office on the ground that the child had established a close relationship with her mother's husband. After procedures having lasted several years, the court concluded, on the basis of declarations from the child's parents and the child herself – who did not wish to see her father –, that contacts would not be in the child's interest.

Decision of the Court

Article 8

The Court reached the same conclusions that in the *Sahin* case above. In this case, however, the German courts had an additional element to weigh in its deliberation, namely the express wish of the child, aged 13 at the end of the procedure.

Article 14 taken together with Article 8

The Court judged that, although the German courts appeared to have dealt with the father's claim in the same way as for a divorced father, they had explicitly adhered to the standard of whether access was "in the best interest of the child". In doing so, they had given decisive weight to the mother's initial prohibition of access and placed a burden on the applicant which was heavier than the one on divorced fathers. There had accordingly been a violation of Article 14 taken together with Article 8. It also found that there had been a further violation of Article 14 taken together with Article 8 because the applicant had been unable to lodge a further appeal, whereas a divorced father would have been able to.

The Court awarded the applicant 20,000 euros for non-pecuniary damage and certain sums for costs and expenses.

Hatton and others v. United Kingdom
Judgment of 8 July 2003

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

Principal facts and complaints

The case concerned the Government policy on night flights at Heathrow airport which, according to the eight applicants, gave rise to a violation of their rights under Article 8 of the Convention. They also complained that they were denied an effective domestic remedy for this complaint.

Decision of the Court

Article 8

The question before the Court was whether, in implementing the 1993 policy on night flights at Heathrow airport, a fair balance had been struck between the competing interests of the individuals affected by the night noise and the community as a whole.

The Court noted that the scheme eventually put in place was stricter than that envisaged in the consultation paper and that the Government had not only resisted calls for more liberal regulation but had introduced additional restrictions. Moreover, they had taken measures to mitigate the effects of aircraft noise. Lastly, real estate values had not been adversely affected by the night noise and people could move elsewhere without financial loss.

With regard to the procedural aspect of the case, the Court noted that the Government had consistently monitored the situation and the 1993 scheme had been preceded by a series of investigations and studies; the applicants had access to the consultation paper and it was open to them to make representations.

Accordingly, the Court found that the authorities had not overstepped their margin of appreciation by failing to strike a fair balance.

Article 13

The Court noted that the scope of review by the domestic courts was limited to the classic English law concepts, and did not at the time allow consideration of whether the increase in night flights under the 1993 scheme represented a justifiable limitation on the right to respect for the private and family lives or the homes of those who lived in the vicinity of the airport. The Court accordingly held that there had been a violation of Article 13.

Slivenko v. Latvia

Judgment of 9 October 2003

Alleged violation of: Articles 8 (right to respect for private and family life) and 5 §§1 and 4 (right to liberty and security)

Principal facts and complaints

The applicants are former Latvian residents of Russian origin. As a spouse and daughter of an officer in the army of the Soviet Union, they were required to leave Latvia in accordance with the treaty of April 1994 on the withdrawal of Russian troops which applied in particular to Russian officers in service on 28 January 1992. Their court action challenging their removal from Latvia was unsuccessful and they were arrested and detained in a centre for illegal immigrants. They finally moved to Russia to join their husband and father. After an interdiction to return to Latvia for five years, they were allowed to stay in Latvia 90 days a year.

Decision of the Court

Article 8

The applicants having lived in Latvia, one from the age of one month to the age of 40, the other from her birth until she was 18, their removal from the country therefore constituted an interference with their private life and home.

The Court considered that this measure could be considered to have been "in accordance with the law", namely the 1994 Treaty on the withdrawal of Russian troops and the constitutional and international law arrangements made after Latvia regained independence in order to protect the interests of national security.

However, the implementation of the scheme for withdrawal of foreign troops and their families should have taken into account individual circumstances. In this case, the applicants could not be regarded as endangering national security – nor their husband and father, who had retired since several years at the time of the facts. The Court judged that the removal order could not be regarded as having been necessary in a democratic society.

Article 5 §1

The Court noted that neither of the arrest warrants lacked a statutory basis in domestic law and that there was not evidence that the police had acted in bad faith or arbitrarily. Consequently, the applicants' detention was in accordance with Article 5 §1 (f).

Article 5 §4

The Court found that it was unnecessary to examine the merits of this complaint, as the applicants had been released speedily before any judicial review of the lawfulness of their detention could take place, and Article 5 §4 did not deal with remedies which might serve to review the lawfulness of detention which had already ended.

The Court awarded each of the applicants 10,000 euros in respect of non-pecuniary damage.

Ezeh and Connors v. United Kingdom

Judgment of 9 October 2003

Alleged violation of: Article 6 §3 (c) (right to defend self in person or through legal assistance of own choosing)

Principal facts and complaints

The case concerned the applicability of Article 6 (right to a fair trial) to proceedings determining charges against prisoners concerning prison disciplinary offences.

In a Chamber judgment of 15 July 2002, the Court considered that Article 6 applied to the disciplinary proceedings brought against the two applicants before the prison governor and that they should have been legally represented. The case was referred to the Grand Chamber (under Article 43 of the Convention) upon request of the United Kingdom Government.

Decision of the Court

While accepting that the penalties imposed on the applicants had a legal basis and did not take the period of their imprisonment beyond the length of their original sentences, the Grand Chamber held that awards of additional days constituted fresh deprivations of liberty imposed for punitive reasons after a finding of culpability. The length of the penalties – 40 and 7 supplementary days, respectively – could not be regarded as sufficiently unimportant or inconsequential to displace the presumed criminal nature of the charges. The charges were therefore "criminal" and Article 6 applied.

The Grand Chamber agreed with the Chamber's reasoning that the refusal of the governor to allow the applicants to be legally represented constituted a violation of Article 6 § 3 (c).

Selected chamber judgments of the Court

Finucane v. United Kingdom

Judgment of 1 July 2003

Alleged violation of: Article 2 (inadequate investigation into circumstances of death)

Principal facts and complaints

In 1989, the applicant's husband was shot dead in his home, in front of her, by two masked men. Mr Finucane, who was a solicitor, had represented clients from both sides of the conflict in Northern Ireland and had been involved in some high-profile cases arising out of that conflict. According to Mrs Finucane, her husband had received death threats, via his clients, from officers of the Royal Ulster Constabulary.

The applicant complained that there had been no effective investigation into her husband's death, which had occurred in circumstances giving rise to suspicions of collusion by the security forces with his killers.

Decision of the Court

The Court noted that the police investigation into the murder had been conducted by officers who were part of the police force suspected by the applicant of making death threats against her husband. There had therefore been a lack of independence. The inquest had not involved any inquiry into the allegations of collusion and the applicant had been refused permission to make a statement about the alleged threats to her husband. The inquest could therefore not be regarded as having constituted an effective investigation.

Of the three inquiries, it was not apparent that the first two had been concerned with investigating the death of the applicant's husband with a view to bringing a prosecution and, in any event, the reports had not been made public; so the necessary elements of public scrutiny and involvement of the family were missing. While the third inquiry was specifically concerned with the murder, having taken place some ten years after the event, it could not be regarded as having been carried out promptly and expeditiously.

There was no possibility in Northern Ireland to challenge such decisions by way of judicial review. No reasons had been given for the decisions not to prosecute in the present case and no information had been provided to reassure the applicant and the public that the rule of law had been respected. The Court concluded that there had been a failure to provide a prompt and effective investigation into the allegations of collusion.

Buffalo Srl in liquidation v. Italy

Judgment of 3 July 2003

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

Principal facts and complaints

The applicant company was entitled to a number of tax rebates, which the tax authorities paid only in part and several years later. As a matter of fact, it was forced to seek financing from banks and private individuals, which incurred cost and interest at a higher rate than was paid by the State on the tax rebates.

Decision of the Court

The Court found that the delay in payment of the rebates constituted an interference with the applicant company's right to the peaceful enjoyment of its possessions. The financial impact of the delays, coupled with the lack of any effective remedy to expedite matters and the uncertainty regarding when the rebates would be paid, had upset the fair balance that had to be maintained between the demands of the general interest of the community and the requirements of Article 1 of Protocol No. 1.

Ernst and others v. Belgium

Judgment of 15 July 2003

Alleged violations of: Articles 6 (right to a fair hearing), 8 (right to the respect for private life), 10 (freedom of expression), 13 (right to an effective remedy) and Article 14 (prohibition of discrimination), taken together with Article 6 §1 (access to a court)

Principal facts and complaints

In several ongoing very sensitive criminal cases in 1995 – which concerned public persons – members of the judiciary were suspected of breaches of professional confidence having permitted leaks and disclosures in the press of confidential information. In June 1995, the Serious Crime Squad carried out searches at the newsdesks and the homes of the four applicant journalists.

The complaint lodged by the applicants, together with an application to join the related proceedings as civil parties, for not having been given relevant information about the reasons for the measures ordered by the judge or about their aims and scope, and infringement of the principle of protecting the anonymity of journalists' sources of information, and right to respect for their homes and private lives, was discontinued.

Decision of the Court

Article 6 §1
On the right of access to a court

The Court noted that the applicants had been given access to the Court of Cassation, only to see their application to be joined as civil parties to the proceedings declared inadmissible on the ground that the defendant was a judge, and thus entitled to immunity from jurisdiction. This immunity is a long-standing practice intended to ensure the proper administration of justice. In order to decide whether such immunity was compatible with the Convention, the Court had to examine whether the applicants had had other remedies available to protect their rights effectively. In that connection, it noted, *inter alia*, that they had brought a civil action in damages against the State in respect of the same matters as those set out in their complaint. In the circumstances, the Court found that the restrictions on the right of access to a court, which were a consequence of the special nature of immunity from jurisdiction, had not infringed the very essence of the applicants' right to a court.

On the failure to communicate documentary evidence concerning the searches

The Court noted that, in deciding whether the application to join the proceedings as civil parties was admissible, the Court of Cassation had relied on documentary evidence that had been disclosed to the applicants in accordance with the principles governing adversarial process. The Court of Cassation had not needed to refer to any other items of evidence in order to reach its decision, and the fact that evidence in the hands of the principal public prosecutor had not been produced to the Court of Cassation or the applicants was of little consequence.

On the lack of a public hearing or public delivery of the judgment

The Belgian Constitution requires hearings to be held and judgments to be delivered in public, except when they concern investigation procedures. Thus, the fact that the hearing of the admissibility of the applicants' application to be joined to the proceedings as civil parties was held in private – without any express reservations by the applicants – did not infringe the Convention.

On the refusal to refer a preliminary question to the Jurisdiction and Procedure Court

The Court found that the decision was sufficiently reasoned and did not appear to have been arbitrary.

Article 13 of the Convention

The Court noted that this complaint overlapped with the complaint under Article 6 of the Convention. It found that the right to access to a court had not been violated and, for the same reasons, that there had been no violation of the right to an effective remedy.

Article 14 of the Convention

The applicants also complained that they had been discriminated against in comparison with the position of a person lodging a complaint against someone other than a judge. The Court considered that this distinction pursued a legitimate aim, namely to shield members of the judiciary from ill-considered proceedings and to allow them to perform their judicial duties dispassionately and independently. Since the applicants retained a right to bring a civil action against the Belgian State, the Court found that the requirement for a reasonable relationship of proportionality between the means used by the Belgian legislature and the aim pursued was satisfied.

Article 10 of the Convention

The Court was struck by the large scale of the searches – that apparently involved some 160 police officers – and noted that the Belgian Government had not stated in what way the applicants were alleged to have been involved in the offences concerned or what measures had been taken directly against members of the State legal service believed to have been responsible for the leaks. The Court questioned whether other means could not have been employed to identify those responsible for the breaches of confidence and noted that the Government had not shown that, without the search and seizure procedures, the authorities would have been unable to establish whether the applicants were implicated in the offences. When the interest of democratic societies in ensuring and maintaining freedom of the press were taken into account, the means employed had not been reasonably proportionate to the legitimate aims pursued.

Article 8 of the Convention

Concerning the alleged breach of the applicants's right to respect for their home

and private life, the Court noted that the search warrants were drafted in wide terms ("search and seize any document or object that might assist the investigation") and gave no information about the investigation concerned, the premises to be searched or the objects to be seized. Furthermore, the applicants – who had not been accused of any offence – were not informed of the reasons for the searches. In the circumstances, the Court found that the searches had not been proportionate to the legitimate aims pursued and held that there had been a violation of Article 8.

It awarded each of the applicants 2,000 euros for non-pecuniary damage and certain sums for costs and expenses.

Perry v. United Kingdom
Judgment of 17 July 2003

Alleged violation of: Article 8 (right to respect for private life)

Principal facts and complaints

The applicant had been arrested in connection with a series of armed robberies of mini-cab drivers, and released pending an identification parade. When he failed to attend that and several further identification parades, the police requested permission to video him covertly. He was taken to the police station to attend an identity parade, which he refused to do. Meanwhile, on his arrival, he was filmed by the custody suite camera, adjusted to ensure that it took clear pictures during his visit. The pictures were inserted in a montage of film of other persons and shown to witnesses. Two witnesses of the armed robberies subsequently identified him from the compilation tape. Neither Mr Perry nor his solicitor was informed that a tape had been made or used for identification purposes. He was convicted of robbery and sentenced to five years' imprisonment.

Decision of the Court

The Court assessed that the ploy adopted by the police had gone beyond the normal use of this type of camera and amounted to an interference with the applicant's right to respect for his private life. The interference had not been in accordance with the law because the police had failed to comply with the procedures set out in the applicable code: they had not obtained the applicant's consent or informed him that the tape was being made; neither had they informed him of his rights in that respect.

It awarded the applicant 1,500 euros for non-pecuniary damage and certain sums for costs and expenses.

Luordo v. Italy
Judgment of 17 July 2003

Alleged violations of: Articles 6 §1 ((right of access to a court), 8 (right to respect for correspondence), Article 1 of Protocol No. 1 (protection of property) and Article 2 of Protocol No. 4 (freedom of movement)

Principal facts and complaints

Having been declared bankrupt, the applicant complained that the bankruptcy order had deprived him of all his possessions; that, after he had been declared bankrupt, all the correspondence sent to him had been handed over to the trustee in bankruptcy; that the restriction prohibiting bankrupts from leaving their place of residence infringed his freedom of movement; and that, as a bankrupt, he had been prevented from bringing judicial proceedings to protect his interests.

Decision of the Court

Article 1 of Protocol No. 1

The Court noted that the bankruptcy order had not deprived the applicant of his property, but of the possibility of administering and disposing of his possessions. The interference in question had been intended to ensure payment of the bankrupt's creditors, and had therefore had the legitimate aim of protecting the rights of others.

However, the necessity of the measure diminishes with the passage of time, and, in the applicant's case, a length of proceedings of more than 14 years upset the balance to be maintained between the general interest in payment of a bankrupt's creditors and the applicant's individual interest in peaceful enjoyment of his possessions. There had been a violation of the Convention in that respect.

Article 8

The Court reached the same conclusions concerning the interference with the applicants' right to respect for his correspondence.

Article 2 of Protocol No. 4

Concerning the restriction on the applicant's freedom of movement, the Court relied on the same considerations as when examining the two preceding articles, and assessed that the interference, in view of its length, had been disproportionate to the objective pursued.

Article 6 §1

The Court considered that this complaint was to be examined from the standpoint of the right of access to a court. Like for the other articles, it held that the restriction on the right to bring judicial proceedings – consequently to the bankruptcy order – had not been justified throughout the proceedings and had created an interference with the applicant's right to access to a court disproportionate to the objective pursued.

It awarded the applicant 31,000 euros for non-pecuniary damage.

Y.F. v. Turkey
Judgment of 22 July 2003

Alleged violation of: Article 8 (right to respect for private life)

Principal facts and complaints

Suspected of aiding and abetting the Workers' Party of Kurdistan, the applicant and his wife were held in police. Mrs F. alleged that during her four days' detention she was maltreated and forced to undergo a gynaecological examination.

The Turkish Government argued that this medical examination could be an important safeguard against false accusations of sexual harassment or ill-treatments. However, the Court considered that any interference with a person's physical integrity had to be prescribed by law and required that person's consent. As this had not been the case, the interference with Mrs F.'s right to respect for her private life had not been in accordance with the law.

It awarded the applicant – who raised a complaint on behalf of the victim, having regard to her vulnerable position – 4,000 euros for non-pecuniary damage, to be held for his wife, and certain sums for costs and expenses.

Smirnova v. Russia
Judgment of 24 July 2003

Alleged violation of: Articles 5 §§1 and 3 (right to liberty and security), 6 §1 (right to a fair trial within a reasonable time) and 8 (right to respect for private life)

Principal facts and complaints

The applicants, two sisters, had been convicted of large-scale fraud and sentenced to several years' imprisonment, and to confiscation of their property. Nine years after the beginning of the criminal investigations, Moscow City Court set aside their conviction and discharged them from serving their sentence because the time-limit for establishing their criminal liability had expired. During the criminal investigations, they had both been remanded in custody four times, one for a total of some four years, the other for more than fifteen months. Moreover, the national identity paper ("internal passport") of one of them was taken away from her for a period of four years, although it is an essential item for everyday life in Russia for, among other things, marrying, obtaining free medical care, obtaining employment, voting or applying to an educational institution. She had further been sentenced to pay an administrative fine for failure to produce this passport during an identity check carried out by a police patrol.

Decision of the Court

Article 5 §§1 and 3

Concerning the reasons given by the domestic authorities about the repetitiveness of the applicants' detention, the Court noted that they were remarkably terse and

amounted to a violation of the right to liberty and security.

Article 6 §1

The Court considered that the charges had not been particularly complex and that the investigation should not have taken years. In all the circumstances of the case, the length of the proceedings failed to satisfy the "reasonable time" requirement.

Article 8

The Court considered that the withholding of Yelena Smirnova's internal passport had been a continuing interference with her private life. Domestic law provided that the passport had to be returned when an individual was released from detention on remand. The Government had not shown that the failure to return it on Yelena Smirnova's release had had any basis in law. There had accordingly been a violation of Article 8.

The Court awarded Elena Smirnova 3,500 euros and the second applicant 2,000 euros for non-pecuniary damage and both of them 1,000 euros jointly for costs and expenses.

Ryabykh v. Russia

Judgment of 24 July 2003

Alleged violations of: Article 6 §1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property)

Principal facts and complaints

The applicant had sued the Savings Bank of Russia and the State for the drop in value of her personal savings – that she had intended to use to buy a flat – after economic reforms. A judgment of the district court had awarded her an indemnisation, but it was set aside by the Presidium of the Regional Court on 19 March 1999 and the applicant's claims dismissed. She had neither been informed that the application had been lodged nor invited to attend the hearing. Subsequently, four further judgments were delivered and four appeals lodged, before judgment in her favour became final. A settlement was reached under which the applicant abandoned her claims and the Government bought her a flat.

Judging that the price of the flat did not cover her loss, the applicant asked the European Court on Human Rights to recover the difference from the State.

Decision of the Court

Article 6 §1

The Court noted that supervisory review of the final judgment that had been pronounced in the applicant's favour by the district court had been initiated by the president of the regional court, who had not been party to the proceedings. The Presidium of the regional court had then dismissed all the applicant's claims and closed the matter. This had nullified an entire judicial process that had ended in a legally binding decision. The Court held that, by using the supervisory-review procedure to set aside the final judgment, the Presidium had infringed the principle of legal certainty and thus the applicant's right to a court.

Article 1 of Protocol No. 1

The Court reiterated that this Article did not oblige states to maintain the purchasing power of sums deposited with financial institutions. Neither did they have an obligation to compensate for losses caused by inflation. It followed that there had been no violation of that provision.

Karner v. Austria

Judgment of 24 July 2003

Alleged violations of: Article 14 (prohibition of discrimination) taken together with Article 8 (right to respect for home)

Principal facts and complaints

The applicant had shared a flat with his partner, the lease holder. The latter died after designating the applicant as his heir for the tenancy. Nevertheless, the landlord brought proceedings against Mr Karner to terminate the tenancy. The district court, then the regional court, dismissed the action, considering that the statutory right of family members to succeed to a tenancy also applied to persons in a homosexual relationship. But that decision was quashed by the supreme court, which found that the legislature's intention, in 1974, had not been to include persons of the same sex.

Decision of the Court

The Court rejected the Government's request that the application be struck out of the list of cases since the applicant had died and there were no heirs who wished to pursue the application. It considered that the subject matter of the application involved an important question of general interest not only for Austria but also for other states that had ratified the Convention. The continued examination of the application would contribute to elucidating, safeguarding and developing the standards of protection under the Convention.

The Court reiterated that differences based on sexual orientation required particularly serious reasons by way of justification. The Government had submitted that the aim of the statutory provision in issue was the protection of the traditional family unit. The Court could accept that this was, in principle, a weighty and legitimate reason which could justify a difference in treatment. However, it was a rather abstract aim, and a broad variety of concrete measures could be used to implement it. Where the Contracting States' margin of appreciation was narrow, as in this case, the principle of proportionality between the means employed and the aim sought to be realised did not merely require the measure chosen to be suitable for realising the aim; it also had to be shown that it was necessary to exclude homosexual couples from the scope of the legislation in order to achieve that aim. The Government had not advanced any arguments that would support such a conclusion and had therefore not advanced convincing and weighty reasons justifying the narrow interpretation of the provision in question.

Hansen v. Turkey

Judgment of 23 September 2003

Alleged violations of: Articles 8 (right to respect for family life) and 14 (prohibition of discrimination)

Principal facts and complaints

The case concerned the applicant's repeated attempts to enforce her right of access to her two daughters, who had been removed to Turkey by their father.

Decision of the Court

Article 8

The Court recalled that proceedings relating to the granting of parental responsibility, including execution of the decision delivered at the end of them, required urgent handling, as the passage of time could have irremediable consequences for relations between the children and the parent who did not live with them.

During the proceedings in this case, which had lasted six years and five months, the authorities had not taken any measures to enable the applicant to gain access to her daughters or to create a more co-operative atmosphere between her and her former husband. During six years, she saw her daughters just four times, although she visited the children's home, accompanied by enforcement officers, around fifty times. In the face of the father's consistent refusal to comply with the access arrangements, the authorities should have taken measures to allow the applicant's access, including realistic coercive measures.

The Court found that the fines imposed on the applicant's former husband were neither effective nor adequate. The Turkish authorities therefore failed to make adequate and effective efforts to enforce Mrs Hansen's access right to respect for her family life.

Article 14

Finding the applicant's complaints that she was subjected to discrimination on the ground of her religion or nationality unsubstantiated, the Court held that there had been no violation of this Article.

Vasileva v. Denmark

Judgment of 25 September 2003

Alleged violations of: Article 5 §1 (right to liberty and security)

Principal facts and complaints

The applicant had been arrested and taken to the police station after refusing to disclose her identity to a ticket inspector on a bus.

She complained that her detention was unlawful.

Decision of the Court

The Court noted that transport companies would be left powerless if they were unable to obtain efficient police assistance when confronted with passengers travelling without a valid ticket who refused to identify themselves. It found that the applicant's detention in order to establish her identity was in accordance with the Administration of Justice Act and Article 5 §1(b) of the Convention.

However, finding the length of the detention (13-and-a-half hours) to be excessive, the Court considered that the authorities had failed to strike a fair balance between the need to ensure the applicant identify herself and her right to liberty. The Court therefore held that there had been a violation of Article 5 §1.

It awarded the applicant 500 euros in damages.

Koua Poirrez v. France

Judgment of 25 September 2003

Alleged violations of: Article 6 §1 (right to a fair trial within a reasonable time) and Article 14 (prohibition of discrimination) taken together with Article 1 of Protocol No. 1 (protection of property)

Principal facts and complaints

The applicant, an Ivory Coast national, adopted by a French national when he was 21 years old, has suffered from a severe physical disability since the age of seven. The French authorities issued him with a card certifying that he was 80% disabled. In 1990 the Family Allowances Office refused to award him a disabled adult's allowance on the ground that he was not a French national and there was no reciprocal agreement between France and the Ivory Coast in respect of this benefit. After the Law of 11 May 1998 was passed lifting the nationality condition for the award of non-contributory benefits, the applicant reapplied for a disabled adult's allowance, which was granted as of June 1998.

Decision of the Court

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

The Court assessed that there was no objective and reasonable justification for the difference in treatment, for the award of social allowances, between French nationals or nationals of countries that had signed a reciprocal agreement, and other foreigners. Even though – at the material time – France was not bound by a reciprocal agreement with the Ivory Coast, it had undertaken, in ratifying the Convention, to secure to everyone within its jurisdiction the rights and freedoms defined in Section I of the Convention. Accordingly, there had been a violation of Article 14 of the Convention combined with Article 1 of Protocol No. 1.

Article 6 §1

The Court held that, having regard to the circumstances of the case, the length of the domestic proceedings conducted by the applicant to challenge the decision refusing the allowance – seven years – had not exceeded the reasonable-time requirement laid down in Article 6 §1.

It awarded the applicant 20,000 euros for the damage sustained and certain sums for costs and expenses.

Credit and Industrial Bank v. Czech Republic

Judgment of 21 October 2003

Alleged violations of: Article 6 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property)

The applicant company had been placed in compulsory administration during seven months on the grounds that its financial situation and liquidity remained unsatisfactory despite measures which had been taken to resolve the situation.

It complained that it had had no remedy concerning this decision or concerning subsequent administrative and judicial decisions.

The Court found that the applicant Bank did not have effective access to a court with the power to review the decisions taken concerning its compulsory administration.

Regarding the applicant company's complaint concerning the unjustified interference with its right to peaceful enjoyment of its possessions, the Court noted that it was essentially based on the same lack of procedural protection which had already been found to give rise to a violation of Article 6. In these circumstances, it considered that it was not necessary to examine it.

Steur v. Netherlands

Judgment of 28 October 2003

Alleged violations of: Article 10 §5 (freedom of expression)

Principal facts and complaints

The applicant, a lawyer, had acted for a client who was accused of obtaining social security benefits by fraud. Civil and criminal proceedings were instituted against the applicant's client after he made statements to Mr W., a social-security investigating officer, at an interview conducted without the presence of an interpreter or lawyer. In the civil proceedings, Mr Steur alleged that Mr W. might have obtained the statements by subjecting his client to unacceptable pressure. Mr W. considered that those statements tarnished his professional honour and reputation and filed a complaint with the dean of the local bar association, who forwarded it to the disciplinary council. The disciplinary council partly upheld Mr W.'s complaint, finding that Mr Steur's allegations were uncorroborated and that he had transgressed the limits of acceptable behaviour and failed to observe the standards expected from a lawyer. The Disciplinary Appeals Tribunal, noting that the applicant did not have any evidence in support of his allegations at the time they were made, held that a lawyer was not permitted to make such allegations without any factual basis.

Decision of the Court

The Court noted that while no penalty had been imposed on the applicant, he had nonetheless being found guilty of violating the applicable professional standards. That could have had a discouraging effect on him, in the sense that he might feel restricted in his choice of arguments when defending clients in future cases. Elsewhere, the applicant's criticism was limited to Mr W. in his capacity as an investigating officer in a specific case, had been confined to the courtroom, and did not amount to a personal insult. It was based on the fact that the applicant's client had not fully understood his incriminating statement. The disciplinary authorities had not attempted to establish whether the applicant's allegations were true or had been made in good faith. In the circumstances, the Court found that the restrictions on the applicant's freedom of expression had not met a pressing social need.

Baars v. Netherlands

Judgment of 28 October 2003

Alleged violations of: Article 6 §2 (presumption of innocence)

The applicant had been taken into police custody on suspicion of forgery and being an accessory to bribery of a public official, Mr B. He was released from police custody, and appeared only as a witness in Mr B.'s trial. He claimed certain sums for reimbursement of costs and expenses he had incurred during the criminal proceedings against him, and for pecuniary and non-pecuniary damage for time spent in pre-trial detention. His claim was rejected on the ground that he had been involved in forging a receipt which was, among other things, the basis for the conviction of Mr B. for participating in forgery.

The Court found that the court of appeal's reasoning amounted in substance to a determination of the applicant's guilt. It was based on findings in proceedings against another person, in which the applicant participated only as a witness, without the protection guaranteed to the defence under Article 6 of the Convention.

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

Under Article 46 of the Convention,[1] the Committee of Ministers supervises the execution of the Court's final judgments by ensuring, in accordance with the Rules it has adopted for this purpose, that all the necessary measures are taken by the respondent states.[2]

These measures should, in particular, repair the consequences of the violation for the applicant (payment of any just satisfaction awarded by the Court, where necessary the provision of special individual measures such as the reopening of the proceedings at the origin of the violation, annulment of a criminal conviction imposed in violation of the right to freedom of expression, revocation of an expulsion order violating the right to respect for family life, etc.). The necessary execution measures may also be of a general character in order to prevent new violations from occurring (changes of legislation, regulations or case-law, or more practical measures such as the appointment of extra judges or magistrates to absorb a backlog of cases, the creation of adequate detention facilities for juvenile delinquents, improvement of police training etc.).

The Committee uses different means in order to ensure efficient execution: examination of progress achieved at the Committee of Ministers' Human Rights meetings, special meetings with the authorities concerned, public statements or interim resolutions. The latter may notably provide information on reforms under way and the timetable for their adoption or encourage the adoption of certain reforms. When all necessary execution measures have been adopted, the Committee closes its supervision through a final resolution. All resolutions are available on the HUDOC site, as well as on the Committee of Ministers' Internet site.

Notwithstanding the abrogation by Protocol No. 11 of the Committee's own competence to decide under former Article 32 the merits of complaints, a great number of such cases are still pending before it for execution control (1 559 as of 1 January 2003).[3]

Documentation for the Committee's Human Rights meetings (6 per year) takes the form of the **Annotated Agenda and Order of Business** and its **Addenda**, presenting notably the information provided by the respondent states about the measures adopted or under way, as well as the Committee's evaluation. The Agenda is made public on the Committee's Internet site.[4]

Owing to the large number of cases examined by the Committee of Ministers, only those of particular interest are included below in a "country-by-country" list. Further information may be obtained from the Directorate General of Human Rights at the Council of Europe,[5] or through the Committee of Ministers' Internet site.

1 Former Article 54 as modified by Protocol No. 11.

2 Article 46 states:
"(1) The High Contracting Parties undertake to abide by a final judgment of the Court in any case to which they are parties,
(2) The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution."

3 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. The Committee of Ministers also decided the just satisfaction to be awarded. Such decisions are not published separately but appear as part of "traditional" or "final" resolutions.

4 The Addenda are not made public because they may also contain confidential information.

5 The Department for the execution of the judgments of the European Court of Human Rights assists the Committee during the preparation and conduct of its Human Rights meetings.

Committee of Ministers: http://wcm.coe.int/
HUDOC: http://hudoc.echr.coe.int/

Part 1. Work in progress

Cases currently before the Committee of Ministers in which resolutions concluding the affair have not yet been adopted

Cases examined at the 847th (8-9 July 2003) and 854th (7-8 October 2003) meetings

(CM/Del/OJ/OT (2003) 847 and CM/Del/OJ/OT (2003) 854)

Cyprus

Egmez v. Cyprus

Appl. No. 30873/96

Judgment of 21 December 2000

This case was examined for the first time at the 741st meeting (13 and 14 February 2001)

The case mainly concerns the inhuman treatment inflicted upon the applicant by state officials during his arrest before being admitted to hospital in Larnaca (violation of Article 3) and the absence of an effective remedy in this respect (violation of Article 13).

On 1 December 1995, the Attorney General filed at the Nicosia District Court a nolle prosequi in the applicant's case, in accordance with Article 113.2 of the Constitution. The applicant was released on the same day. On 4 December 1995 the Nicosia District Court discharged the applicant.

Individual measures

The applicant's lawyer wrote to the Secretariat on 19 April 2001 raising several questions about the need to adopt individual measures in this case. In May 2001 the Secretariat forwarded a copy of the letter to the Cypriot authorities, who confirmed that they were examining measures that might need to be taken in this case and undertook to keep the Secretariat informed of developments.

The Cypriot authorities have informed the Secretariat that by decision of the Attorney-General of 30 April 2003, a criminal investigator has been appointed in respect of this case as well as of the similar Denizci case (judgment of 23 May 2001). Furthermore, investigation is at present well under way (notably all documentary evidence and written statements following interviews not only from the applicants themselves but also from numerous other persons and sources is completed and the investigator has already received all the relevant files from the Attorney-General's office and from other governmental departments or bodies that conducted investigations related to these cases). This information is at present under examination by the Secretariat.

General measures

The Cypriot authorities have informed the Committee of Ministers that the judgment of the European Court was disseminated to all institutions concerned (judicial and also police/security forces, Attorney General's Office, Ombudsman, Cyprus Bar Association). The Ministry of Justice and Ministry of the Interior have requested that appropriate instructions be prepared and distributed to all state officials in order to avoid any future cases of ill-treatment. Instructions prepared by the Attorney General have also been distributed to all authorities concerned. Finally, the judgment has received extensive media coverage in Cyprus. Information about its publication has been requested.

Furthermore, sections 242-243 of the Criminal Code and related parts of the Code of Criminal Procedure have been amended, taking into account the findings of the European Court. However, further legislative measures are envisaged.

The Committee has asked whether, as far as the violation of Article 13 is concerned and in the light of §§71 and 99 of the Court's judgment, the Cypriot authorities envisage adopting specific measures to guarantee that similar violations do not recur.

All the information received so far from the Cypriot authorities, and the questions raised by the applicants' representatives and other delegations are included in the Memorandum prepared by the Secretariat (CM/Inf (2003) 30 – restricted document). The information provided so far indicates that improvements in existing procedures and additional safeguards have been introduced. Some questions nonetheless remain outstanding and further information/clarifications are requested on a number of points with a view to enabling the Committee of Ministers to assess the compliance with the judgments in the Egmez and Denizci cases.

The Committee decided at its 847th meeting (July 2003) to postpone the examination of the general measures to its 863rd DH meeting (December 2003).

Italy

Dorigo Paolo v. Italy

Appl. No. 33286/96, Interim Resolutions DH (99) 258 and ResDH (2002) 30. See also Addendum 4 of the Annotated Agenda for the 854th meeting

This case was examined for the first time at the 666th meeting (30 and 31 March 1999)

The case concerns the unfairness of certain criminal proceedings as a result of which the applicant was condemned to more than thirteen years' imprisonment for, among other things, involvement in a terrorist bomb attack on a NATO military base in 1993. His conviction was based exclusively on statements made before the trial by three "repented" co-accused, the applicant not having been allowed to examine these statements or to have them examined (violation of Article 6§1 taken together with Article 6§3d).

Individual measures

Given the circumstances of this case, the question of the reopening of the domestic proceedings was raised. Draft legislation aimed at introducing this possibility in Italian law has been before the Parliament since at least 1998 and a new draft bill (No. 1447/C) was introduced in July 2001. This new text, however, like the previous ones, would allow for such a re-examination only in case of violation of Article 6§3 of the Convention and would not apply to cases decided, like this one, by the Committee of Ministers (cf. Recommendation No. R (2000) 2). On 22 March 2001 the Director General of Human Rights addressed a letter to the Italian authorities drawing attention to the shortcomings in the proposed text. Details of the time-frame envisaged for the adoption of this draft law have also been requested. At the 783rd meeting (February 2002) the Deputies adopted Interim Resolution ResDH (2002) 30, encouraging the Italian authorities to ensure the rapid adoption of new legislation in conformity with the principles in Recommendation No. R (2000) 2 and decided to resume consideration of the matter once new legislation had been adopted or, at the latest, in October 2002. On this last occasion, the Italian Delegation stated that the draft law was still under discussion and expressed the opinion that although the draft text only referred to judgments of the European Court of Human Rights, it might once adopted also be applied by analogy to this case. The above-mentioned draft law was in fact amended and approved by the Chamber of Deputies on 28 July 2003 and is now pending before the Senate for final adoption. The amended text provides for the possibility to review criminal proceedings in case a violation of Article 6 of the Convention has been found by the Court or the Committee of Ministers. If the violation of the Convention was found before the entry into force of the law, the request for revision shall have to be introduced within 180 days after the entry into force of the law, with the exception of cases concerning mafia and terrorism crimes, for which no revision will be allowed. Therefore, if this draft law was adopted as it stands, it would not be applicable to the case of Dorigo. The applicant's lawyer raised this issue in a letter to the Secretariat of 15 September 2003 and requested that the applicant be immediately released, pending the outcome of a new trial. In the light of this information, the Committee of Ministers charged the Secretariat to prepare a draft Interim Resolution.

General measures

Article 111 of the Italian Constitution, as modified in November 1999, gives Constitutional rank to a number of requirements contained in Article 6 of the Convention. This new constitutional provision has been implemented by Law No. 63 of 1 March 2001, which amends, *inter alia,* Article 513 of the Code of Criminal Procedure.

According to the law now in force, pre-trial statements made without respecting the adversarial principle by co-accused persons cannot be used in proceedings against a person without his consent (unless the judge establishes that the co-accused person's refusal to be cross-questioned in the proceedings is the result of bribery or threats). This rule applies not only to statements made in the context of the same proceedings but also to those made in other proceedings. As regards pending proceedings, Law No. 35 of 25 February 2000 provides that statements that have not been questioned by the accused person can only be used against him/her in the debate as long as they are corroborated by other evidence.

Poland

Kudła v. Poland

Appl. No. 30210/96, Grand Chamber judgment of 26 October 2000

Lisiak v. Poland

Appl. No. 37443/97, judgment of 5 November 2002

The first case was examined for the first time at the 732nd meeting (5 and 6 December 2000)
The second case was examined for the first time at the 834th meeting (9 and 10 April 2003)

These cases concern the excessive length of the criminal proceedings against the applicants, which started in 1991 (more than 9 years and 11 years and 1 month)[1] (violation of Article 6§1).

The case of Kudła also concerns the excessive length (2 years, 4 months) of the applicant's detention on remand on charges of fraud and forgery (violation of Article 5§3) and the lack of effective remedies to enforce, at national level, the applicant's right to a hearing "within a reasonable time" (violation of Article 13).

As regards the length of the detention on remand, the case of Kudła presents similarities to the cases of Trzaska and others.

Individual measures

Acceleration of the proceedings in the Lisiak case.

General measures

During the first examination of the Kudła case (732nd meeting, December 2000), the Committee noted the breadth of the scope of this judgment: for the first time the Court had applied Article 13 of the Convention in order to affirm that contracting states must provide effective domestic remedies so as to resolve the problem of excessive length of proceedings. The Committee also took note of the fact that the remedies required in this regard by Article 13 could be both compensatory and preventive (§159 of the judgment). It was suggested that general consideration be given to this topic, notably within the Steering Committee for Human Rights (CDDH) and its expert sub-committees, in order to facilitate the search for suitable solutions in member states. The Committee of Ministers nonetheless considered that this general consideration must not be allowed to prejudice its supervision of measures that Poland will adopt to comply with the Kudła judgment in accordance with Article 46 of the Convention.

At the 783rd meeting (February 2002) the Representative of Poland informed the Committee of the progress made in adoption of general measures. He referred in particular to:

- a number of improvements of the Code of Criminal Procedure contained in a draft law which has already been submitted to Parliament;
- a draft law prepared by a group of experts which provides mainly for compensatory but also for some preventive remedies against the excessive length of judicial proceedings (the draft is still being considered by the Government);
- a new decision of the Constitutional Court of 18 December 2001, which might open a way to civil claims against state officials on the grounds of excessive length of judicial proceedings.

The Polish Delegation has informed the Secretariat that following extensive consultations between the competent authorities at the national level, the draft law mentioned above had not been approved, particularly given the serious risk of overburdening of domestic courts with new complaints. As a result, the Civil Law Codification Committee had been mandated to prepare a new draft law. A preliminary working version of a new draft, which provides for both compensatory and preventive remedies, was submitted to the Secretariat.

By letter of 2 July 2003 the Polish Delegation indicated a number of legislative measures aiming at the acceleration of the criminal procedures which were taken within the framework of the provisions of the Code of penal procedure of 1997 and in particular by its last amendments which came into effect on 1 July 2003. According to the most important provisions, courts will no longer have the possibility of remitting the case back to the preliminary proceedings in order to conduct further investigations, the possibility of closing criminal proceedings by way of settlement was increased, preparatory proceedings and those concerning several co-defendants were simplified.

The Polish Delegation presented a memorandum (CM/Inf (2003) 42 – restricted document), which was distributed during the 854th meeting (October 2003), concerning in particular the draft law of 20 August 2003 on a remedy for excessive length of judicial proceedings and the draft law of 8 April 2003 amending the provisions of the Civil Code on civil liability of the State Treasury for unlawful action or omission of public authorities. The Secretariat is presently preparing a letter to the Polish Delegation containing its remarks on these drafts.

Turkey

Sadak, Zana, Dicle and Doğan

Appl. No. 29900/96, judgment of 17 July 2001, Interim Resolution ResDH (2002) 59

This case was examined for the first time at the 764th meeting (2 and 3 October 2001)

The case concerns the violation of the right to a fair trial in proceedings before the Ankara State Security Court, which sentenced the four applicants, members of the Turkish Grand National Assembly, to 15 years' imprisonment in December 1994.

The violations found are the following:

- lack of independence and impartiality of the tribunal due to the presence of a military judge on the bench of the State Security Court (violation of Article 6§1 – see §40 of the judgment);
- lack of timely information about the legal redefinition of the accusation brought against the applicants and lack of sufficient time and facilities to prepare the applicants' defence (violation of Article 6§3 a and b taken together with Article 6§1 – see §§57-59 of the judgment);
- impossibility to examine or to have examined the witnesses who testified against the applicants (violation of Article 6§3d taken together with Article 6§1 – see §§67-68 of the judgment).

Having found these violations, the Court did not consider it necessary to decide separately the applicants' complaints under Articles 10, 11 and 14.

Individual measures

In view of the extent of the violations of the right to a fair trial and of their consequences for the applicants, the Turkish authorities were requested, at the 764th meeting (October 2001), to consider urgently specific individual measures to erase these consequences (cf. Committee of Ministers' Recommendation R (2000) 2 and its Interim Resolution ResDH (2001) 106 on the individual measures in cases concerning freedom of expression in Turkey).

Interim Resolution ResDH(2002)59

At the 794th meeting (30 April 2002), as no progress in the execution of the judgment was reported on this point, the Committee of Ministers adopted Interim Resolution in which it

- Strongly urges the Turkish authorities, without further delay, to respond to the Committee's repeated

1 Poland's declaration recognising the right of individual petition (former Article 25 of the Convention) took effect on 1 May 1993.

demands that the said authorities urgently remedy the applicants' situation and take the necessary measures in order to reopen the proceedings impugned by the Court in this case, or other ad hoc measures erasing the consequences for the applicants of the violations found;

On 03/08/2002 a new law came into force which introduced into the penal and civil codes the possibility of reopening proceedings but only in new cases (coming before the Court after 3 August 2002). This new law has been strongly criticised within the Committee of Ministers, since it was inapplicable to the four applicants. A new urgent action in their favour was consequently requested. In view of the absence of such an action, the Secretariat has been asked at the 810th meeting (October 2002) to prepare a new draft interim resolution. This has however not been adopted in view of the reopening of the impugned proceedings in Turkey (see below).

Adoption of new legislation and retrial

On 4 February 2003 a new law entered into force allowing the reopening of domestic proceedings in all cases which have already been decided by the European Court and in all new cases which would henceforth be brought before the European Court. The provisions however exclude reopening for all cases which were pending before the Court at the date of entry into force of the Law (4 February 2003).

On the basis of this new law, the applicants' request for retrial was accepted by the State Security Court of Ankara on 28 February 2003 and seven public hearings of the case have already been held by the same court (on 28 March 2003, 25 April 2003, 23 May 2003, 20 June 2003, 18 July 2003, 15 August 2003 and 15 September 2003). The Committee of Ministers welcomed the reopening of the impugned domestic proceedings.

However, the Committee has noted that successive requests to suspend the execution of the original prison sentence have been rejected by the State Security Court notwithstanding the fact that the applicants continue to suffer the consequences of the violations found, i.e. imprisonment on the basis of an unfair trial. This situation has given rise to calls for further measures to put an end to all negative effects for the applicants of the violations found. These requests have been reiterated at three consecutive meetings of the Committee of Ministers in April, June and July 2003. Moreover it has been suggested that the Prosecutor makes the proprio mutu request that the applicants are released in order to conform to the European Court's judgment.

The Turkish delegation has indicated that these concerns would be conveyed to the competent authorities. It has also recalled that the question of suspension of the original sentence lies within the competence of the State Security Court. Yet, at the new hearing on 15 September 2003, the State Security Court again rejected the request for release made by the applicants.

Follow-up by the Parliamentary Assembly

From the outset, the Parliamentary Assembly has been closely scrutinising the follow-up to the present judgment. At its 4th part session (23 September 2002) the Assembly held a debate and adopted Resolution 1297 (2002) and Recommendation 1576 (2002) on the implementation of the Court's judgments by Turkey. In these texts the Assembly, in particular, strongly supported demands to remedy the applicants' situation and urged the Committee of Ministers to use all means at its disposal to ensure compliance with the judgment without further delay.

In its reply to Recommendation 1576 (2002), the Committee "welcomes the fact that […] the criminal proceedings in the aforementioned case are to be reopened before the State Security Court of Ankara. The Committee nevertheless notes that the suspension of the execution of the original prison sentence of the applicants pending the new trial was not approved when the request to re-open proceedings was accepted. The Committee trusts that a new, fair trial will proceed expeditiously so as effectively to erase the consequences of the violations found by the Court."

On 30 April 2003, the Committee received a new written question (CM (2003) 69) by Mr Erik Jurgens, a member of the Assembly, in which he "regret[s] notably that the execution of the original prison sentence imposed in the unfair proceedings had not been suspended" and "ask[s] if the Committee does not consider that to comply with the European Court's judgment Turkey must suspend the execution of [this] sentence […] awaiting the new fair trial". A reply to this question was issued under the reference CM/AS (2003) Quest426 final and transmitted to the Parliamentary Assembly.

During the 854th meeting it was decided that the President of the Committee of Ministers would send a letter to the Turkish authorities expressing the Committee's preoccupations about the applicant's situation and in particular their allegations contesting the fairness of the new proceedings.

General measures

These measures were adopted notably concerning constitutional reform which has replaced the military judge in the State Security Courts by a civil judge (see the case Çiraklar v Turkey, judgment of 28 October 1998, Resolution DH (99) 555). As regards the right to a fair trial, this right received constitutional protection as a result of an amendment to Article 36 of the Constitution on 17 octobre 2001.

Interim resolutions

Ireland

Quinn and Heaney v. Ireland McGuinness v. Ireland

Appl. Nos. 36887/97 and 34720/97, Court judgments of 21 December 2000

Interim Resolution ResDH (2003) 149, 22 July 2003

The applicants had complained that Section 52 of the Offences Against the State Act 1939 had breached their rights to remain silent and not to incriminate themselves as well as the presumption of their innocence.

In its judgments of 21 December 2000 the Court, unanimously:

- held that there had been a violation of Article 6, paragraphs 1 and 2, of the Convention in respect of both cases in relation to the applicants' right to silence and their right not to incriminate themselves and in relation to the presumption of their innocence;
- held that no separate issue arose under Article 10 of the Convention in the Quinn case and Articles 8 and 10 in the Heaney and McGuinness case;
- held that the government of the respondent state was to pay, within three months, 4 000 Irish pounds as regards non-pecuniary damage to each of the applicants and 11 341.08 Irish pounds (inclusive of any value-added tax) less 5 000 French francs paid by the Court in legal aid (Quinn case) and 9 377.50 Irish pounds (inclusive of any value-added tax) less 5 000 French Francs paid by the Court in legal aid (Heaney and McGuinness) for costs and expenses and that simple interest at an annual rate of 8% should be payable from the expiry of the above-mentioned three months until settlement;
- dismissed, unanimously, the remainder of the claims for just satisfaction.

In this resolution the Committee of Ministers satisfied itself that the government of the respondent state had paid the applicant the sums provided for in the judgment, and took note of the information provided by the government. As far as individual measures were concerned, it decided to resume consideration of this case, as soon as the judicial review proceedings brought by Mr Quinn before the Irish courts had ended or at the latest within one year.

Appendix to Interim Resolution ResDH (2003) 149

Information provided by the Government of Ireland during the examination of the Quinn and Heaney and McGuinness cases by the Committee of Ministers

General measures

Under the Good Friday Peace Agreement of 10 April 1998, reforms of the Offences against the State Acts 1939-1985 (subsequently extended to 1998) are envisaged. In this respect the Minister of Justice, Equality and Law Reform established a committee to examine all aspects of the 1939 Acts and to report to the Minister with recommendations for reform. The final report of the Review Group on the Offences against the State Acts was submitted to the Minister for Justice, Equality and Law reform in August 2002. The Report is available on the website of the Department of Justice, Equality and Law Reform, http://www.justice.ie/.

In Chapter VIII of the Report (pp. 183 to 212), the problems raised under the Quinn and Heaney and McGuinness cases were extensively examined by the committee, which recommended, *inter alia*, that Section 52 of the 1939 Act and Section 2 of the 1972 Offences against the State Act (having amended the 1939 Act) be either modified (respecting the case-law of the European Court of Human Rights in this particular field) or repealed.

Section 52 of the 1939 Act reads as follows:

"1. Whenever a person is detained in custody under the provisions in that behalf contained in Part IV of this Act, any member of the Gárda Síochána may demand of such person, at any time while he is so detained, a full account of such person's movements and actions during any specified period and all information in his possession in relation to the commission or intended commission by another person of any offence under any section or sub-section of this Act or any scheduled offence.

2. If any person, of whom any such account or information as is mentioned in the foregoing sub-section of this section is demanded under that sub-section by a member of the Gárda Síochána, fails or refuses to give to such member such account or any such information or gives to such member any account or information which is false or misleading, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to imprisonment for a term not exceeding six months."

The Irish authorities are giving consideration to amending the existing section 52 of the 1939 Act and section 2 of the 1972 Act (having amended the 1939 Act), and have decided that the Gárda Síochána are not to avail of Section 52 of the 1939 Act until the legislative issue is resolved.

Furthermore, any uncertainty which existed concerning the admission into evidence of statements made under section 52 of the 1939 Act has been resolved by the judgment of 21 January 1999 of the Supreme Court in the case of Re. National Irish Bank Ltd (No. 1) (see http://www.bailii.org/). In its judgment, the Supreme Court found that a confession of a bank official obtained by Inspectors as a result of the exercise by them of their powers under Section 10 of the Companies Act 1990 would not, in general, be admissible at a subsequent criminal trial of that official unless, in any particular case, the trial judge was satisfied that the confession was voluntary (see paragraph 28 of the judgments of the European Court in both cases). The Supreme Court considered that compelling a person to confess and then convicting that person on the basis of the compelled confession would be contrary to Article 38 of the Constitution.

In the Irish legal system, a judgment of the Supreme Court is part of the law of Ireland. It should be noted that the Supreme Court is the highest Court in the country. A judgment of the Supreme Court such as that given in the National Irish Bank Ltd case must be applied by all criminal courts.

The position in Irish law now is that a statement obtained as a result of a statutory demand would be inadmissible in evidence where the trial judge decided that statement was not given voluntarily.

Furthermore, the European Convention on Human Rights Act 2003, which is now part of Irish law and will be brought into force by late 2003, will require the Irish courts to interpret and apply the law in a manner compatible with the Convention and to take due account of the case law of the Court in such interpretations and application.

Lastly, the judgments of the European Court are now accessible on the Irish Courts Service website (http://www.courts.ie/) and are also available in legal libraries.

The Irish Government is of the opinion that the judgment of the Supreme Court in the National Irish Bank Ltd case is in itself sufficient to prevent any future violation similar to those found by the Court, in its judgments of 21 December 2000, concerning Section 52 of the 1939 Act.

As far as individual measures are concerned, the Government suggests the postponement of the Committee of Ministers' examination of these cases, to the first meeting after the decision in the case of Quinn before the Irish courts has been rendered or at the latest within a period of one year.

Turkey

Institut de Prêtres français v. Turkey
Appl. No. 26308/95, Court judgment of 14 December 2000

Interim Resolution ResDH (2003) 173, 8 October 2003

The case concerned an alleged violation of the right to property. In its judgment the Court took formal note of a friendly settlement concluded between the government of the respondent state and the applicant, and decided unanimously, having satisfied itself that the settlement was based on respect for human rights as defined in the Convention or its Protocols, to strike the case out of its list.

In the absence of implementation of the commitments made, the Chairman of the Committee of Ministers addressed a letter dated 6 November 2002 to the Turkish Minister of Foreign Affairs, who conveyed the Committee of Ministers' concerns to the Prime Minister of Turkey asking him to instruct the competent authorities urgently to implement the friendly settlement.

On 17 June 2003 the Chairman of the Committee of Ministers addressed a second letter to the Turkish Minister of Foreign Affairs, who indicated in his reply of 1 August 2003 that the search for a solution was being pursued, despite the difficulties encountered, and that the implementation of the friendly settlement was imminent.

In this resolution the Committee of Ministers noted with concern that nearly three years after the adoption of the Court's judgment, the commitments made have not yet been honoured. It urged the Turkish authorities to intensify their efforts in order to comply without delay with the Court's judgment in this case, and decided to pursue the supervision of the execution of the present judgment, if need be, at each of its forthcoming meetings, until all necessary measures have been adopted.

Part 2. Human rights (DH) final resolutions

Austria

Jerusalem v. Austria
Appl. No. 26958/95, Court judgment of 27 February 2001

Resolution ResDH (2003) 150, 20 October 2003

The applicant complained that her right to freedom of expression had been violated on account of an injunction, in 1993, prohibiting her, under Article 1330 of the Austrian Civil Code (*Allgemeines Bürgerliches Gesetzbuch*), from repeating certain statements she had made in the exercise of her political functions, in the course of debate in the Vienna Municipal Council.

In its judgment the Court unanimously:

- held that there had been a violation of Article 10 of the Convention, insofar as the Austrian courts considered that the applicant had expressed statements of fact, rather than value judgments, and had therefore required her to prove the truth of such statements without however giving her an effective opportunity to adduce evidence to support them;
- held that it was not necessary to examine separately whether there had been a violation of Article 6 of the Convention;
- held that the finding of a violation in itself constituted sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
- held that the government of the respondent state was to pay the applicant, within three months from the date at which the judgment became final, 101 531.140 Austrian schillings for costs and expenses incurred in the domestic proceedings and 110 000 Austrian schillings for costs and expenses incurred in the proceedings before the Convention organs and that simple interest at an annual rate of 4% would be payable on those sums from the expiry of the above-mentioned three months until settlement;
- dismissed the remainder of the applicant's claim for just satisfaction.

In this resolution the Committee of Ministers satisfied itself that the government of the respondent state had paid the applicant the sums provided for in the judgment, and took note of the information provided by the government.

Appendix to Resolution ResDH (2003) 150

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

As regards the individual measures, it should be noted that, according to the Austrian legal system an injunction under Article 1330 of the Austrian Civil Code (*Allgemeines Bürgerliches Gesetzbuch*), such as that at the origin of the Jerusalem case, constitutes a civil claim rather than a criminal judgment. Accordingly, the applicant never suffered from any other consequence of the contested judgment than the injunction itself. She can at any time request the lifting of this measure and should she do so, the Austrian courts would not fail to give effect to the judgment of the European Court of Human Rights in this case.

As regards the general measures, it is recalled that the Austrian courts have, since 1993, adapted their interpretation of the crime of defamation, including the difference between value judgments and statements of fact, to the requirements of the Convention, as interpreted by the European Court (see Resolution DH (93) 60 in the case of Oberschlick No. 1 of 23/05/91). As regards the civil-law aspects of defamation at issue in the present case, the judgment of the European Court was immediately communicated to the Austrian Supreme Court. It was also brought to the attention of the public, as well as of all authorities concerned, by its publication in German in a number of Austrian legal journals, i.e *Medien und Recht* 2001 (p. 89 *ff*), *Österreichisch Juristenzeitung* 2001 (p. 23 *ff*), *Österreichisches Institut für Menschenrechte Newsletter* 2001 (p. 52 ff).

As a result of the direct effect of the European Convention on Human Rights and of the judgments of the European Court in Austrian law, the judgment in the case of Jerusalem has also been fully incorporated into the Austrian legal system as reflected, for example, in the Judgment of the Supreme Court of July 5, 2001, 6 Ob 149/01 g concerning the interpretation of Article 1330 of the Austrian Civil Code (*Allgemeines Bürgerliches Gesetzbuch*) in the light of the right to free expression as enshrined in Article 10 of the Convention. In this judgment, the Supreme Court notably assessed the balance of public and private interests in the light of the notion of "permissible criticism" of individuals and associations that enter the arena of political debate, as developed by the European Court in the Jerusalem case.

The Government considers that, in the light of the abovementioned developments, there will no longer exist a risk of repetition of the violation found in the present case and that, consequently, Austria has met its obligation under Article 46, paragraph 1 of the Convention.

Italy

Santandrea v. Italy

Appl. No. 25650/94, Commission decision of 20 May 1998, Interim Resolution DH (99) 357

Final Resolution ResDH (2003) 151, 20 October 2003

In Interim Resolution DH (99) 357 the Committee of Ministers decided that there had been a violation of Article 5, paragraph 1, of the Convention on account of the unlawfulness of the applicants' detention for approximately 30 hours after the judge competent for the preliminary investigation had ordered their immediate release.

At the 688th meeting of the Ministers' Deputies, the Committee of Ministers, agreeing with the Commission's proposals, held that the government of the respondent state was to pay each of the two applicants as just satisfaction, within three months, 10 000 000 Italian lire in respect of non-pecuniary damage and 3 000 000 Italian lire in respect of costs and expenses, namely a total sum of 26 000 000 Italian lire, and that interest should be payable on any unpaid sum, calculated on the basis of each full elapsed month of delay at the statutory rate applicable on the date of this decision, it being understood that the interest would accrue from the expiry of the time-limit until full payment was placed at the disposal of the applicants. It also invited the government to inform it of the measures taken following its decisions.

In this final resolution the Committee of Ministers satisfied itself that the government of the respondent state had paid the applicant the sums provided for in the judgment, and took note of the information provided by the government.

Appendix to Final Resolution ResDH (2003) 151

Information provided by the Government of Italy during the examination of the Santandrea case by the Committee of Ministers

In this case, the order for the applicants' immediate release was implemented late, thus violating the Convention, due to the fact that no-one was on duty in the Court's registry during the week-end.

In order to prevent this problem from occurring again in the future, the Department of penitentiary administration of the Ministry of Justice, in its circular letter No. 3498/5948 of 19 April 1999, addressed to the Directors of Prisons and to regional inspectors of the penitentiary administration, recalled that the immediate release of prisoners should permanently be assured, 24 hours a day, every day. To this effect, the circular letter establishes precise and coherent provisions about the procedure to be followed in the prisons.

Furthermore, the Commission's report was transmitted to the authorities directly involved in the case.

The Government of Italy considers that these measures effectively prevent the risk of new violations similar to that found in this case and that Italy has therefore fulfilled its obligations under former Article 32 of the Convention.

Latvia

Podkolzina v. Latvia

Appl. No. 46726/99, Court judgment of 9 April 2002

Resolution ResDH (2003) 124, 22 July 2003

The case concerned a violation of the right of the applicant, a Latvian national belonging to the Russian-speaking minority, to present her candidature at the elections to the Parliament in October 1998, in that she was struck off the electoral list on the ground of insufficient knowledge of the Latvian language.

In its judgment of 9 April 2002 the Court unanimously:

- held that there had been a violation of Article 3 of Protocol No. 1 of the

Convention;
- held that there was no need to rule separately on the complaint lodged under Article 14 of the Convention;
- held that there was no need to rule separately on the complaint lodged under Article 13 of the Convention;
- held that the government of the respondent state was to pay the applicant, within three months from the date at which the judgment became final, 7 500 euros in respect of non-pecuniary damage and 1 500 euros in respect of costs and expenses, to be converted in Latvian lats at the rate applicable on the date of issuing the present judgment plus any amount due in respect of value added tax and that simple interest at an annual rate of 6% would be payable on those sums from the expiry of the above-mentioned three months until settlement;
- dismissed the remainder of the applicant's claim for just satisfaction.

In this resolution the Committee of Ministers satisfied itself that the government of the respondent state had paid the applicant the sums provided for in the judgment, and took note of the information provided by the government.

Appendix to Resolution ResDH (2003) 124

Information provided by the Government of Latvia during the examination of the Podkolzina case by the Committee of Ministers

Further to the European Court's judgment in the case of Podkolzina against Latvia, the law on election to Parliament was amended on 9 May 2002 and the provisions requiring higher proficiency in Latvian language for all persons running for parliamentary election were deleted. As a result of this amendment, the applicant and all other persons in her position could freely run for the new parliamentary elections of 5 October 2002 without providing any proof of their linguistic proficiency. This reform thus effectively remedies both the applicant's situation and prevents new similar violations.

The judgment of the European Court was furthermore published in the *Official Gazette* of 21 May 2002 (No. 75 (2650)).

It should moreover be recalled that the violation in the present case also related to the attitude of the Riga Regional Court, which failed to review adequately the lawfulness of the administrative decisions preventing the applicant from running for election and refused to remedy her situation (see paragraph 37 of the European Court's judgment). As regards this issue, the Government expects all Latvian courts to align their practice on the requirements of the European Convention of Human Rights by granting direct effect to the European Court's judgments. Indeed, subsequent to the impugned domestic judgment delivered on 31 August 1998, Latvian courts, including the Supreme Court and the Riga Regional Court itself, applied various provisions the European Convention on Human Rights, as interpreted by the European Court in its judgments (see, *inter alia*, the Supreme Court's judgments of 13 February 2002 and 13 February 2003; the Riga Regional Court's judgment of 27 March 2003). The Government accordingly trusts that the direct effect of the European Convention of Human Rights and of the European Court's case-law will prevail in the future so as to efficiently prevent violations of the ECHR.

In view of the foregoing, the Government is of the opinion that Latvia has complied with its obligation under Article 46 to abide by the judgment in the case of Podkolzina against Latvia.

Sweden

Lundevall v. Sweden

Appl. No. 38629/97, Court judgment of 12 November 2002

Resolution ResDH (2003) 152, 20 October 2003

The case concerned the violation of the applicant's right to a fair trial, on account of the refusal by the Administrative Court of Appeal to hold a hearing in proceedings concerning social security benefits;

In its judgment the Court unanimously:
- held that there had been a violation of Article 6, paragraph 1, of the Convention;
- held that the government of the respondent state was to pay the applicant, within three months from the date at which the judgment became final, 5 000 euros in respect of costs and expenses, to be converted into the national currency of the respondent state at the rate applicable at the date of settlement, and that simple interest at a rate equal to the marginal lending rate of the European Central Bank plus three percentage points should be payable from the expiry of the above-mentioned three months until settlement;
- dismissed the remainder of the applicant's claim for just satisfaction.

In this resolution the Committee of Ministers satisfied itself that the government of the respondent state had paid the applicant the sums provided for in the judgment, and took note of the information provided by the government.

Appendix to Resolution ResDH (2003) 152

Information provided by the Government of Sweden during the examination of the Lundevall case by the Committee of Ministers

Generally speaking, the Government of Sweden recalls that both the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights are part of the Swedish legal order and have to be applied by the courts and authorities (see for example Resolution DH (98) 205 in the case of Holm against Sweden, or Resolution DH (95) 94, in the Case of Fredin No. 2 against Sweden).

The Government therefore considers that Swedish administrative courts will not fail to adapt their practice with regard to the holding of oral hearings to the jurisprudence of the European Court, in order to prevent new violations of the Convention.

It states in this regard that the attention of the authorities concerned has been drawn to their obligations ensuing from the Convention by means of the publication in *Svensk Juristtidning* (the most important legal journal in Sweden) of an article by Mr Danelius, former member of the European Commission of Human Rights, explaining the Strasbourg Court's position in the cases of Lundevall and Salomonsson against Sweden. Furthermore, an explanatory report relating to the European Court's judgments in these cases has been sent to all the relevant judicial authorities. An additional publication of the judgments is under way in the Judicial Authorities Bulletin (Domstolsverket informerar).

Finally, with regard to the applicant's rights, the government notes that the applicant has the right to ask for the reopening of the proceedings before the Supreme Administrative Court and that this Court can order the reopening of the proceedings, if it considers it necessary, in order to fully erase the consequences of the violations for him.

The Government of Sweden considers that Sweden has accordingly complied with its obligations under Article 46, paragraph 1, of the Convention.

Switzerland

F.R. v. Switzerland

Appl. No. 37292/97, Court judgment of 28 June 2001

Resolution ResDH (2003) 154, 20 October 2003

The complaint concerned a breach of the equality of arms in that the Federal Insurance Court in its judgment of 10 June 1997 had not considered an applicant's statement, that in these proceedings certain witnesses had not been heard and that the applicant himself had not been properly heard.

In its judgment the Court unani-

mously:

- held that there had been a violation of Article 6, paragraph 1, of the Convention;
- held that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
- held that the government of the respondent state was to pay the applicant, within three months from the date at which the judgment became final, 3 103.95 Swiss francs in respect of costs and expenses and that simple interest at an annual rate of 5% would be payable on this sum from the expiry of the above-mentioned three months until settlement;
- dismissed the remainder of the applicant's claim for just satisfaction.

In this resolution the Committee of Ministers satisfied itself that the government of the respondent state had paid the applicant the sums provided for in the judgment, and took note of the information provided by the government.

Appendix to Resolution ResDH (2003) 154

Information provided by the Government of Switzerland during the examination of the F.R. case by the Committee of Ministers

As regards individual measures, the European Court of Human Rights' judgment was forwarded to the applicant on 22 October 2001, enabling the latter to seek a review of the Federal Insurance Court's judgment of 10 June 1997.

Concerning general measures, Section 110 of the Federal Judiciary Act of 16 December 1943, which sets out the rules governing exchanges of submissions following the lodging of appeals with the Swiss Federal Court, provides that the Federal Court may seek observations from the authority that took the decision in question. The act also allows a second exchange of submissions, enabling, inter alia, the appellant to set out his views on the observations submitted by the court concerned.

The Federal Court's case-law has clarified the scope and conditions of application of this section of the act, taking account of the case-law of the Strasbourg organs concerning Article 6, paragraph 1, of the Convention.

Moreover, the judgment of the European Court was transmitted to the Federal Insurance Court on 29 June 2001, to the Courts-Martial Appeal Court and to the Federal Government Departments on 11 July 2001 and to the Cantonal Justice Departments on 11-12 July 2001 for the attention of the cantonal courts. It was published in the journal *Jurisprudence des autorités administratives de la Confédération* No. 65/IV (2001) and may be consulted (in French) at the following website: http://www.vpb.admin.ch/franz/cont/heft/654som.html. The judgment was also mentioned, *inter alia*, in the Federal Council's annual report on Swiss activities at the Council of Europe in 2001, which was published in the *Feuille fédérale* No. 8/2002.

The Government of Switzerland believes that these measures will prevent any future occurrence of violations similar to that found in the present case and that Switzerland has therefore satisfied its obligations under Article 46 of the Convention.

Commissioner for Human Rights

Commissioner for Human Rights is an independent institution within the Council of Europe that aims to promote awareness of and respect for human rights in its member states. Mr Alvaro Gil-Robles was elected the first Commissioner for Human Rights in 1999, for a term of office of six years.

Mandate

The mandate of the Commissioner for Human Rights is laid out in Resolution (99) 50 of the Committee of Ministers. The Commissioner is entrusted with:

- helping promote the effective observance and full enjoyment of human rights, as embodied in the various Council of Europe instruments;
- identifying possible shortcomings in the law and practice of member states with regard to compliance with human rights;
- promoting education in and awareness of human rights in the member states;
- encouraging the establishment of human rights structures in member states where such structures do not exist.

In performing his duties, the Commissioner may directly contact the governments of Council of Europe member states, which must facilitate the independent and effective performance of his functions.

The Commissioner is to encourage action by, and work actively with, all national human rights structures and national ombudsmen or similar institutions. He is to cooperate also with other international organisations.

The Commissioner is a non-judicial institution which does not take up individual complaints. Nevertheless, he can draw conclusions and take initiatives of a general nature that are based on individual complaints.

Under certain circumstances, the Commissioner may also work with non-member states. This led him to issue a report on 16 October 2002 on the human rights situation in Kosovo and on the fate of persons displaced from Kosovo, despite the fact that Serbia and Montenegro had not then joined the Council of Europe.

Visits

When in official visit, the Commissioner often meets with citizens' associations (NGOs), the national ombudsperson, members of the country's political opposition as well as with leaders of religious communities and ethnic minorities. He often meets people, such as Roms, in the places where they live. Visiting hospitals (including mental hospitals), prisons and other places of detention as well as shelters for vulnerable people is an important part of his standard programme.

Between July and October 2003, M. Gil-Robles conducted three official visits to member states:

Latvia (6-8 October 2003)

The Commissioner met the President of the Republic, members of the Government and the Parliament, and representatives of various NGOs. Particular attention was paid to the situation concerning minority groups, prisons and the education system.

... missing quote ...

Malta (20-21 October 2003)

The Commissioner met the President of the Republic, members of the Governement and the Parliament, the ombdusman, and representatives of various NOGs. He paid particular attention to immigration problems, the appalling state of detention facilities and the judiciary system.

Estonia (28-30 October 2003)

The Commissioner met with members of the Government and Parliament, the Legal Chancellor (Ombudsman), and representatives of various NGOs. Conditions of detention, minority rights and problems of people with mental disabilities were issues of particular concern for the Commissioner.

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Seminars

Second Seminar on Human Rights and the Armed Forces (Madrid, 15-16 September 2003)

The Office of the Commissioner organised this meeting with the Ministry of Defence of Spain.

www.commissioner.coe.int

Publications

Recommendation on the law and practice relating to the sterilisation of women in the Slovak Republic

On 17 October 2003, the Commissioner forwarded this Recommendation to the Government of the Slovak Republic. At the same time, the Government adopted a Resolution setting out preventive measures on alleged forced sterilisation of Roma women. The Commissioner welcomed the issue of his dialogue with the Slovak authorities. He insisted, however, that the Slovak authorities should assume an objective responsibility for failing to ensure the compatibility of Slovak laws and practices relating to this matter, and that redress should be available to victims of previous violations.

Opinion on the new Finnish Aliens Act

The Commissioner published this opinion in October 2003. While on visit to Finland, where he met with the Finnish President, the Minister of Labour and the President of the Parliamenary Constitutional Committee to discuss the human rights situation in Europe, the Commissioner was questioned by the press on problems linked to immigration:

...missing quote...

... he said. In this context, he recalled the terms of his Recommendation (2001) concerning the rights of aliens wishing to enter a Council of Europe member state and the enforcement of expulsion orders.

Intergovernmental co-operation – Law and policy in the human rights field

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

Steering Committee for Human Rights (CDDH)

The CDDH continues its work in the field of the reform of the control mechanism set up by the European Convention on Human Rights. Following the Declaration on "Guaranteeing the long-term effectiveness of the European Court of Human Rights", adopted by the Committee of Ministers at its 112th Session, in May 2003, the CDDH was charged with the mission of drawing up a set of concrete and coherent proposals which, if adopted, would provide a significant tool for guaranteeing the long-term effectiveness of the European Court of Human Rights and of the Convention system in general.

Bodies answerable to the CDDH

Committee of Experts for the Improvement of Procedures for the Protection of Human Rights

The Committee undertook the work assigned to it by the CDDH to fulfill the above-mentioned task.

– With regard to proposals aiming at *preventing violations at the national level and improving domestic remedies*, the Committee elaborated three draft Recommendations of the Committee of Ministers to member States:
  • the first dealt with improving domestic remedies;
  •the second with the verification of the compatibility of draft laws, existing legislation and administrative practices with the standards laid down in the European Convention on Human Rights;
  • the third concerned the European Convention on Human Rights in university education and professional training.
  These drafts will include appendices containing explanations and examples of good practice.
– With regard to proposals aiming at *improving and accelerating the execution of the Court judgments*, the Committee elaborated a draft Resolution of the Committee of Ministers on judgments revealing an underlying systemic problem.

Drafting Group on the Reinforcement of the Human Rights Protection Mechanism

This Group's work was also launched following the Committee of Ministers Declaration on guaranteeing the long-term effectiveness of the European Court of Human Rights. It's goal is to draw up of a draft amending Protocol to the European Convention on Human Rights, accompanied by an explanatory report. This work will concentrate on all the measures to be taken concerning the European Court of Human Rights requiring amendment of the Convention – optimising the effectiveness of the filtering procedures and the subsequent processing of applications before the Court –, some amendments with regard to the execution of Court judgments and other issues – including the possible accession of the European Union to the Convention, the terms of office of judges of the Court and the need to ensure that the future amendments to the Convention are given effect as soon as possible.

Group of Specialists on access to official information

The Group finalised the elaboration of a draft guide on access to official documents which aims at facilitating a broad dissemination of the principles contained in Recommendation Rec (2002) 2 of the Committee of Ministers on access to official documents. It has prepared a short questionnaire to acquire a first overview of the situation of the existing national legislation in this field in order to examine the advisability of drafting legally binding instrument.

Working Group on Social Rights

This Group has begun its work on the justiciability of fundamental social rights under the supervisory mechanism

established under the European Convention on Human Rights.

Committee of Experts for the Development of Human Rights

In accordance with the terms of reference given to it by the CDDH, following the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000), this Committee continued to examine the issue of protecting human rights during armed conflicts and during internal disturbances and tensions; to assess the current legal situation and thereby to identify possible gaps in the legal protection of the individual and make proposals to fill such gaps. Following its discussions, which focused on three specific questions – Article 5 of the European Convention on Human Rights, a possible fact-finding mechanism and a possible Committee of Ministers Recommendation on situations where there was a threat or if there were allegations of serious or massive human rights violations, calling on states to take measures to protect human rights more effectively in such situations –, the Committee drew up its final activity report and considered that it would be appropriate that the results of this activity be reflected in a draft Declaration which could be adopted by the Committee of Ministers.

European Social Charter

The European Social Charter sets out rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States Parties. This legal instrument was revised in 1996 and the Revised European Social Charter, which came into force in 1999, is gradually replacing the initial 1961 treaty.

Signatures and ratifications

Forty-three member states of the Council of Europe have signed the 1961 Charter or the 1996 revised Charter. To date, 33 states have ratified one or other of the instruments.

About the Charter

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. It is composed of thirteen members elected by the Council of Europe's Committee of Ministers.

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 are in conformity with the Charter. Its decisions ("conclusions") are published every year. If a state takes no action on a Committee decision to the effect that it does not comply with the Charter, the Committee of Ministers addresses a recommendation to that state, asking it to change the situation in law or in practice. The Committee of Ministers' work is prepared by a Committee comprising representatives of the governments of the States Parties to the Charter, assisted by observers representing European employers' organisations and trade unions.

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.

The organisations entitled to lodge complaints with the Committee are the European Trade Union Confederation, the Union of Industrial and Employers' Confederations of Europe, the International Organisation of Employers, non-governmental organisations with consultative status with the Council of Europe, employers' organisations and trade unions in the country concerned, and, under certain conditions, national NGOs. Once the complaint has been declared admissible, a written procedure is set in motion, with an exchange of documents between the parties. A public hearing may be held. The Committee then takes a decision on the merits of the complaint, which it forwards to the parties concerned and the Committee of Ministers in a report, which is made public. Finally, the Committee of Ministers adopts a resolution, by which it may recommend that the state concerned take specific measures to bring the situation into line with the Charter.

Effects of the application of the Charter in the various states

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

Progress achieved in complaints lodged before the European Committee of Social Rights

World Organisation Against Torture v. Greece, v. Ireland, v. Italy, v. Portugal and v. Belgium (Nos. 17/2003, 18/2003, 19/2003, 20/2003 and 21/2003)

The complaints relate to Article 17 (right of mothers and children to social and economic protection) of the European Social Charter. It alleges that these countries have not effectively prohibited all corporal punishment of children, nor have they prohibited any other form of degrading punishment or treatment of children and provided adequate sanctions in penal or civil law.

The European Committee of Social Rights declared the complaint admissible on 16 June 2003.

No. 16/2003 Confédération Française de l'Encadrement – CFE CGC v. France

The complaint relates to Articles 2 (right to just conditions of work), 4 (right to a fair remuneration), 6 (right to bargain collectively, including the right to strike) and 27 (right of workers with family responsibilities to equal opportunities and equal treatment) of the Revised European Social Charter. It alleges that the provisions relating to the working hours of certain managers (*cadres*) contained in Act No 2003-47 of 17 January 2003 violate these provisions.

It was declared admissible on 16 June 2003.

No. 15/2003 European Roma Rights Centre v. Greece

The complaint relates to Article 16 (right of the family to social, legal and economic protection) and the Preamble (non-discrimination) of the European Social Charter. It alleges that there is widespread discrimination both in law and in practice against Roma in the field of housing.

It was declared admissible on 16 June 2003.

No. 14/2003 International Federation for Human Rights v. France

The complaint relates to Articles 13 (right to social and medical assistance), 17 (right of children and young persons to social, legal and economic protection) as well as Article E of the Revised European Social Charter (prohibition of all forms of discrimination in the application of the rights guaranteed by the treaty). It alleges that recent reforms of the "Aide médicale de l'Etat" (State medical assistance) and to the "Couverture maladie universelle" (Universal sickness cover) deprive a large number of adults and children with insufficient resources of the right to medical assistance.

It was declared admissible on 16 May 2003.

No. 13/2002 Autisme-Europe v. France

The complaint relates to Article 15 (rights of persons with disabilities), Article 17 (right of children and young persons to social, legal and economic protection), and to Article E (non-discrimination) of the Revised European Social Charter. It alleges insufficient educational provision for autistic persons constituting a violation of the above provisions.

The complaint was declared admissible on 12 December 2002. A public hearing was held on 29 September 2003.

Seminars, meetings

Yerevan (Armenia), 23-24 October 2003

Seminar on the Revised European Social Charter, final step in preparations towards ratification of the instrument.

Stockholm (Sweden), 15-17 October 2003

Participation in the annual meeting of the Office of the Swedish Ombudsmen for Children.

Publications

European Committee of Social Rights – Conclusions 2003

Volume 1: Bulgaria, France, Italy

Volume 2: Romania, Slovenia, Sweden

European Committee of Social Rights – Conclusions XVI-2: Articles 2, 3, 4, 9, 10 and 15

Volume 1: Austria, Belgium, Cyprus, Czech Republic, Denmark, Finland, Germany, Greece, Hungary, Iceland

Volume 2: Malta, Netherlands, Norway, Poland, Portugal, Slovak Republic, Spain, Turkey, United Kingdom

Social Charter Internet site:
http://www.coe.int/T/E/Human_Rights/Esc/

E-mail: social.charter@coe.int

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

Article 3 of the European Convention on Human Rights provides that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment". This article inspired the drafting of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

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

The 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 according to 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.

Visits

Albania, July 2003

A CPT's delegation carried out a six-day visit to Albania. It was the Committee's fifth visit to this country.

The main purpose was to examine the treatment of persons detained by law enforcement agencies and the efficacy of legal remedies in cases involving allegations of ill-treatment. The delegation visited three police establishments and also went to Prison No. 313 in Tirana in order to interview persons who had recently been in police custody. In addition, the delegation carried out a follow-up visit to Elbasan Psychiatric Hospital, in order to review the measures taken by the Albanian authorities following the recommendations made by the CPT after its two previous visits to that establishment. In addition, it went to the Prison Hospital and the Military Hospital in Tirana to examine medical files of persons deprived of their liberty.

The delegation held meetings with the Minister of Public Order, the Deputy Minister of Justice, the Deputy Minister of Health, with the General Prosecutor of the Republic and the Deputy People's Advocate. In addition, it met senior officials, judges and civil and military prosecutors.

Spain, July-August 2003

This eleven-day visit to Spain focused on the fundamental safeguards offered to persons deprived of their liberty by law enforcement agencies and on the treatment of foreign nationals detained by the national police and the civil guard under aliens legislation. The delegation also reviewed the treatment of detainees placed in special units because they are considered to be "dangerous" or "inapt for an ordinary prison regime", and examined the situation of detainees in penitentiary psychiatric hospitals.

During the visit, the delegation held fruitful discussions with the Minister for the Interior, the Secretary of State for Security, the Government Representative for Foreigners and Immigration and the under-Secretary of State at the Ministry of the Interior. In addition, it met senior officials from the Ministries of the Interior and of Justice, representatives from the Office of the Public Prosecutor and the Ombudsman.

Turkey, September 2003

A delegation of the CPT carried out an ad hoc visit to Turkey in order to examine the treatment of persons while in the custody of law enforcement agencies. This included examining the implementation of recent legal reforms concerning matters such as the reduction of custody periods, access to a lawyer and the notification of relatives. The delegation also reviewed the operation of the system for the medical examination of persons in police/gendarmerie custody.

The delegation visited various police and gendarmerie establishments in Adana, Bismil, Çınar, Diyarbakır and Mersin. Visits were also made to prisons in Adana, DiyarbakÏr and Mersin in order to interview persons who had recently been in the custody of law enforcement agencies; it also went to health facilities in these three cities where persons in police or gendarmerie custody are medically examined.

During the visit, the delegation met several Public Prosecutors, representatives of the Adana and Diyarbakır Branches of the Human Rights Association, of the Bar Associations in Adana and Diyarbakır and of the Diyarbakır Branch of the Turkish Medical Association.

At the end of the visit, during talks in Ankara with senior officials from the Foreign Affairs, Interior, Justice and Health Ministries, the CPT's delegation provided the Turkish authorities with its preliminary observations.

Finland, September 2003

The CPT carried out its third visit to Finland. The delegation reviewed measures taken by the Finnish authorities in response to the Committee's recommendations made after its 1992 and 1998 visits, in particular as regards the safeguards offered to persons detained by the police, the situation of remand prisoners in police and prison establishments and the treatment of immigration detainees, especially in the recently opened Helsinki Custody Unit. For the first time in Finland, the CPT's delegation examined conditions and the operation of legal safeguards in a forensic psychiatric establishment.

The delegation met the Ministers of Justice, the Interior, Social Affairs and Health, the Parliamentary Ombudsman and the Deputy Chancellor of Justice. It also held talks with senior officials from various Ministries and with the Ombudsman for Minorities.

Estonia, September 2003

The CPT carried out its third visit to Estonia. The delegation followed up a certain number of issues already examined during the two previous visits, in particular in respect of conditions of detention in police arrest houses and prisons. In addition, the delegation visited a psychiatric hospital and a social care home. It held consultations with the Minister of Justice and with the Legal Chancellor of the Republic, as well as with senior officials from various Ministries.

Switzerland, October 2003

The CPT carried out its fourth visit to Switzerland. Its main purpose was to assess the implementation of the measures adopted by the Swiss authorities after the CPT's visit in 2001, in particular as regards the procedures and means of restraint applied in the context of forcible removals by air. The delegation also reviewed the treatment of foreign nationals refused entry into Switzerland (whether asylum seekers or not), whilst held in the transit zone at Zürich International Airport, and of foreign nationals detained at Kloten Airport Prison No. 2 pending their removal from the country.

In the course of the visit, the delegation held meetings with the Federal Counsellor, the Head of the Department of Justice and Police, the Cantonal Counsellor of Social Affairs and Security of the Canton of Zürich and the Cantonal Counsellor of Justice and the Interior of the Canton of Zürich. In addition, it met a number of senior officials at both federal and cantonal level.

Documents state by state – General reports

Belgium

July 2003: Response of the Belgian Government concerning the issues raised by the CPT after its visit in November-December 2001

The response highlights in particular the numerous efforts made by the Belgian authorities concerning the implementation of the CPT's recommendations in respect of the law enforcement agencies. Developments deserving particular attention include: the adoption of specific articles in the criminal code prohibiting torture and inhuman and degrading treatment; the prohibition, during the enforcement of removal orders of foreigners by airplane, of immobilisation techniques which could result in postural asphyxiation and the use of plastic handcuffs ("plastic strips"). In addition, an inter-ministerial working group dealing with "police custody" has been established in order to implement the CPT's recommendations concerning fundamental safeguards against ill-treatment of persons detained by law enforcement agencies.

As regards prison establishments, the CPT has taken note with satisfaction of the closure of the much-criticised psychiatric annexe in Lantin and of the transfer of patients to Paifve Social Defence establishment. Other measures have been taken, aimed in particular at combating inter-prisoner violence in Andenne Prison (setting up of a secured unit; project "admission of newly-arrived prisoners", informing them on racketeering between prisoners, etc.). The CPT has also noted that the Belgian authorities envisage the review of the so-called "zero option" regime, and have commissioned Louvain Catholic University to carry out a study with a view to tackling the phenomenon of overcrowding in the prison system.

Information on the implementation of recommendations made in respect of the Public Establishment for Youth Protection in Braine-le-Château and the Jean Titeca Hospital in Brussels is also provided.

Both the visit report (published in October 2002) and the response of the Belgian authorities are available on the CPT's website.

Russia

July 2003: Public statement concerning the Chechen Republic

After six visits to the Chechen Republic in the last three years (most recently in May 2003), the CPT concluded that members of the law enforcement agencies and federal forces operating in the Chechen Republic continue to resort to torture and other forms of ill-treatment and that action taken to bring to justice those responsible has proved largely unproductive.

The CPT identified measures which need to be taken by the Russian authorities. They include a formal statement from the highest political level denouncing ill-treatment by members of the federal forces and law enforcement agencies in the Chechen Republic.

The CPT's public statement concerning the Chechen Republic – the second, after one in July 2001 – was made under Article 10 §2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which provides that if a Party to the Convention "fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

Malta

July 2003: Follow-up response by the Government concerning the issues raised by the CPT after its visit in May 2001

In its report, the CPT focused on the legal framework governing safeguards against ill-treatment by the police, the programme of reconstruction at Corradino Correctional Facility (the only prison in Malta), the activities provided to prisoners and the conditions prevailing in the forensic ward at Mount Carmel Hospital.

In their follow-up response, the Maltese authorities state that "issues such as the questioning of criminal suspects, the conditions of detention in police cells and the inspection of police establishments by an independent authority will continue to be given all the importance they deserve." The response goes on to highlight various specific measures taken to implement the Committee's recommendations. Those measures include steps to improve medical services at Corradino and the construction of a new Forensic Ward at Mount Carmel.

The CPT requested confirmation that immigration detainees were no longer being held at the Ta' Kandja Detention Centre. While noting that recent landings of large numbers of illegal immigrants on Malta had created an "emergency situation" necessitating continued use of the Ta'Kandja Detention Centre, the Maltese authorities stated that the Centre would be closed down as soon as possible.

Both the visit report (published in August 2002) and the interim and follow-up responses of the Maltese authorities are available on the CPT's website.

Ireland

September 2003: Report on the CPT's visit in May 2001 and response of the Government concerning the issues raised by the CPT after its visit in May 2001

The Irish Government has requested the publication of the CPT's report, together with its response. The visit – the third in this country – had been carried out within the CPT's programme of periodic visits for 2002. The CPT had visited a number of police stations, prisons and psychiatric establishments, in particular in Dublin and Cork. In the report, the Committee pays particular attention to the treatment of persons detained by the *Garda Síochána* (police) and measures taken to improve conditions of detention and health care services in prison. It also examines the situation of detained children and of persons cared for in the Central Mental Hospital and in institutions for the mentally disabled.

The response sets out steps taken by the Irish Government in the light of the CPT's recommendations; they include measures to provide additional activities for prisoners and the development of national standards for institutions for persons with mental disabilities. The Government has also announced its intention to publish draft legislation for the establishment of an independent Garda Síochána Inspectorate in the near future.

The report and response are available on the CPT's website.

Finland

October 2003: Publication of preliminary observations by the CPT after its visit to Finland in September 2003

The preliminary observations made by the CPT's delegation at the end of its visit above-mentioned (see *Visits*, above) have been published with the agreement of the Finnish authorities. During the visit, the CPT's delegation had reviewed measures taken by the Finnish authorities in response to the Committee's recommendations made after its 1992 and 1998 visits, in particular as regards the safeguards offered to persons detained by the police, the situation of remand prisoners in police and prison establishments, and the treatment of immigration detainees, especially in the recently opened Helsinki Custody Unit. For the first time in Finland, the CPT's delegation examined conditions and the operation of legal safeguards in a forensic psychiatric establishment.

Publications

13th General Report

The CPT published its 13th General Report, covering the period from 1 January 2002 to 31 July 2003.

It provides a detailed summary of the visits carried out during the last nineteen months. The Committee also raises the question of whether it should adopt a more pro-active approach vis-à-vis the implementation of its recommendations which have substantial financial implications.

The CPT welcomes the adoption of the Optional Protocol to the United Nations Convention against Torture by the United Nations General Assembly on 18 December 2002.

It sets out the standards it has developed concerning the deportation of foreign nationals by air. These standards deal with the use of force and means of restraint by escort staff, the requirements for the proper conduct of deportation operations and the monitoring of such operations. In particular, the CPT insists on an absolute ban on the use of means likely to obstruct the airways (nose and/or mouth), partially or wholly.

Copies of the General Report and further information are available on the Committee's website.

CPT standards updated in September 2003

In a number of its General Reports the CPT has described some of the substantive issues which it pursues when carrying out visits to places of deprivation of liberty. The Committee hopes in this way to give a clear advance indication to national authorities of its views regarding the

manner in which persons deprived of their liberty ought to be treated and, more generally, to stimulate discussion on such matters.

The "substantive" sections, which deal with police custody, imprisonment, training of law enforcement personnel, health care services in prisons, foreign nationals detained under aliens legislation, involuntary placement in psychiatric establishments and juveniles and women deprived of their liberty, have been brought together in "the CPT standards".

This document has been updated and now includes a new section on deportation of foreign nationals by air.

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

Filling the Frame
Conference to mark the 5th anniversary of the entry into force of the Framework Convention for the Protection of National Minorities

In order to mark this anniversary, the Council of Europe organised a conference in Strasbourg on 30 and 31 October 2003. It brought together a large number of representatives of governments, civil society, minorities as well as eminent experts in the field of minorities in order to analyse and discuss some of the most salient issues identified during this first five years period and pave the way for the full implementation of this treaty as it enters its second monitoring cycle.

Helle Degn, Council of the Baltic Sea States Commissner on Democratic Development; Boriss Cilevičs, Member of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly; Robert Dunbar, Senior Lecturer, University of Glasgow

Jenő Kaltenbach, Parliamentary Commissioner for National and Ethnic Minority Rights, Hungary

Rainer Hofmann, President of the Advisory Committee on the Framework Convention

Traditional Sami costume, worn by a participant from Norway

The following important issues were addressed during the Conference:

– The participation of minorities in public life: which consultation measures and which structures should be used to associate persons belonging to national minorities with decisions affecting them? Which political representation for minorities? Where do they stand as regards economic and social integration?
– The right of minorities to education: which language of instruction and at which levels? On the basis of which educational programmes, in which establishments and with which resource materials?
– Access and presence of minorities in the media: which media coverage should be given to problems concerning minorities and in particular how should media contribute to the promotion of a culture of tolerance and intercultural dialogue; which support should be given to programmes in minority languages?

The Conference also examined the present and future role of the Framework Convention within the changing European context.

Alexander Slafkovsky, member of the Congress of Local and Regional Authorities of Europe

Karol Jakubowicz, Expert, National Broadcasting Council of Poland, Vice-Chairman, Steering Committee on the Mass Media

Sia Spiliopoulou Åkermark, First Vice-President of the Advisory Committee on the Framework Convention; Duncan Wilson, Associate Expert, International Bureau of Education, UNESCO

Marc Weller, Director of the European Centre for Minority Issues, Flensburg

Geoff Goff, Journalist, Euronews and Stephanie Marsal, Secretariat of the Framework Convention for the Protection of National Minorities

Consult the special file on the conference at:

http://www.coe.int/minorities/

Framework Convention for the Protection of National Minorities

The particularity of Europe is the diversity of traditions and cultures of European peoples with shared values and a common history.

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 at 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 2003, the Advisory Committee had received 33 state reports and already adopted 28 opinions.

Meetings on the first results of the monitoring of the Framework Convention

During the period under consideration, three follow-up meetings took place, in Moldova, Ukraine and Slovakia.

5th anniversary of the entry into force of the Framework Convention

See the previous page of this *Bulletin* for more information on the Conference organised to mark the 5th anniversary of the entry into force of the Framework Convention, or consult the *5th Anniversary Conference special file* on the Minorities website.

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

Media

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

Media and criminal proceedings

On 10 July 2003, the Committee of Ministers adopted a Recommendation and a Declaration on the provision of information through the media in relation to criminal proceedings, the result of more than two years' work by the Steering Committee on the Masss Media (CDMM).

These texts are developed in the chapter devoted to the Committee of Ministers.

Conditional Access Convention

The European Convention on the legal protection of services based on, or consisting of, conditional access entered into force on 1 July 2003 after it was ratified by three states .

This Convention aims to combat piracy of radio, television and Information Society services based on, or consisting of, conditional access and provided against remuneration. The instrument describes a number of activities that are considered illegal, ranging from the manufacture to the possession for commercial purposes of illicit access devices, and including the importation, distribution, sale, rental and installation of such devices. Parties to the Convention are obliged to take measures to make these unlawful activities punishable by criminal, administrative or other sanctions, and to adopt measures to enable them to seize and confiscate illicit devices, as well as any profits or financial gains resulting from such unlawful activities. The Convention also requires the Parties to adopt measures to permit the providers of protected services to bring actions for damages against those who engage in unlawful activities.

Activities for the development and consolidation of democratic stability

– On 13 August 2003, the Council of Europe and the European Agency for Reconstruction signed a second *Joint Initiative concerning the media in Montenegro*. The activities to be organised within its framework will include assistance in drafting new laws as well as training in implementing them, particularly for magistrates. Two training seminars for judges and prosecutors took place in September and October 2003.

– *"Freedom and Supervision: the Role of Broadcasting Regulatory Authorities"*: this regional seminar was organised, on 3 and 4 October 2003, in Warsaw, in co-operation with the Polish Broadcasting Council. The participants were representatives of broadcasting regulatory authorities from South-Eastern Europe. The objective of the activity was to review the legislative and practical problems faced by broadcasting regulatory authorities in South-Eastern Europe concerning their law-enforcement powers and to identify possible approaches to overcome these problems at both the regional and national levels.

– The important topic of *media concentrations and transparency* was addressed during a regional conference held in Frankfurt/Oder on 23-24 October 2003. Discussions focussed on foreign investments and their possible negative impact on media pluralism and diversity in Central and Eastern European countries.

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

European Commission against Racism and Intolerance

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.

ECRI is an independent human rights monitoring body on issues related to racism and racial discrimination in the 45 member states of the Council of Europe. ECRI's programme of activities comprises three aspects: a country-by-country approach; work on general themes; and activities in relation with civil society.

Country by country approach

ECRI released its second report on San Marino in November 2003, thereby completing ECRI's second round of monitoring of member states' laws, policies and practices to combat racism and intolerance. The second round reports include suggestions and proposals to help governments tackle any problems identified.

In 2003, ECRI started work on the third round of its country-specific monitoring. The third round reports will focus on implementation of the recommendations contained in ECRI's previous reports. They will also focus on "specialisation", examining specific questions, chosen according to the situation in each country, in more depth in each report. ECRI has already carried out contact visits to nine countries in the framework of this third round (Belgium, Bulgaria, Czech Republic, Germany, Greece, Hungary, Norway, Slovakia and Switzerland). 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, prior to the elaboration of the country reports. 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 falling within ECRI's remit.

Work on general themes

ECRI's General Policy Recommendations are addressed to all member states and provide guidelines which policy-makers are invited to use when drawing up national strategies to combat racism and intolerance.

ECRI is currently working on its General Policy Recommendation No. 8, which will focus on how to ensure that the fight against terrorism does not infringe upon the right of persons to be free from racism and racial discrimination. This General Policy Recommendation is part of the more general efforts underway in the Council of Europe to ensure respect for human rights while fighting against terrorism.

Relations with civil society

Round Table in Slovenia (Ljubljana, 14 October 2003)

This meeting is one of a series of national round tables organised in the framework of ECRI's Programme of Action on Relations with Civil Society, which works to fully involve civil society in the fight against racism and intolerance and to promote intercultural dialogue based on mutual respect between the various sectors of society.

The Round Table discussed ECRI's second report on Slovenia; national legislation to combat discrimination; ex-Yugoslav minority groups in Slovenia; and racism and xenophobia in public discourse. Governmental agencies, victims of discrimination and representatives of the media attended the meeting.

Publications

Second report on San Marino
(CRI (2003) 42) 4 November 2003

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

Equality between women and men

Since 1979, the Council of Europe 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.

Gender-balanced participation in decision-making

Following the adoption of Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making, the CDEG is preparing a compilation of statistics on the implementation of this Recommendation. Furthermore, an inventory of good practices relating to women's participation in peace negotiations, conflict prevention and resolution and the rebuilding of post-conflict societies will be drawn up.

Trafficking in human beings

European Convention on action against trafficking in human beings

The drafting of this Convention started within the Ad hoc Committee on Action against Trafficking in Human Beings. A preliminary draft text has been sent to experts from all member states and observers.

More information on these activities can be found on the web site: http://www.coe.int/trafficking.

LARA Project

– "Flying consultancies" have been organised in Albania, on drafting a law on the protection of witnesses, and in Serbia-Montenegro, on drafting provisions on trafficking in human beings in criminal code and criminal procedure code.

– A training seminar in drafting legislation for the protection of victims and victim-witnesses of trafficking in human beings was organised in Strasbourg, at the request of the countries in order to provide assistance in drafting legislation on protection of victims and of victim-witnesses, and examples of good practices.

– A final seminar was organised in Durres (Albania) from 30 October to 1 November 2003. The aim of the seminar was to assess the achievements and the results of the criminal law reform in the participating countries as well as to discuss specific issues relating to the drafting and effective implementation of anti-trafficking legislation and national plans of action. Furthermore it was also an opportunity to envisage actions necessary to further strengthen the reform process in this field.

Participants in the 1st meeting of the Ad hoc Committee on action against trafficking in human beings (CAHTEH), 15 September 2003

Violence against women

The Group of specialists on the implementation of and follow-up to Recommendation Rec (2002) 5 of the Committee of Ministers to member states on the protection of women against violence met for the third time. A study on the follow-up given to this Recommendation in member states and on the existing action plans against violence was commissioned.

Gender mainstreaming

The third meeting of the Informal Network of experts on gender mainstreaming focussed on gender mainstreaming at local and regional level, to create a link with the work of the Congress of Local and Regional Authorities of the Council of Europe.

Women and peacebuilding

A Group of Specialists on the role of women and men in intercultural and interreligious dialogue for the prevention of conflict, for peacebuilding and for democratisation has been set up as a follow-up to the 5th European Ministerial Conference on equality between women and men.

Co-operation activities

– A Seminar was organised in Georgia, entitled "*Implementation of the Recommendation Rec (2003) 3 on balanced participation of women and men in political and public decision making. More women in Parliament*". This seminar took place in the framework of the "Electoral package for Georgia" and aimed at the promotion of women as candidates and voters. A special focus was put on women's individual voting rights.

– A Seminar on "*Equality and Democracy in Azerbaijan*" was organised in Baku in October 2003. The first part of the seminar aimed at assisting the authorities in the preparation of a draft Act on equal rights and equal opportunities for women and men. The second part dealt with guidelines for the implementation of the Recommendation on balanced participation of women and men in political and public decision-making. A special focus was put on women's individual voting rights and on the involvement of young women in political and public-decision making.

Publications

Proceedings of the 5th Ministerial Conference on equality between women and men

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.

Human rights training for the Russian Militia

The purpose of this project is to enhance, into the daily work of Militia officers in the Russian Federation, knowledge of human rights standards. Participants are Police Instructors selected from various MVD Higher Police Institutes, who, following there training courses, are expected to train militia students and colleagues.

From July to October, the following workshops were arranged:

– Saratov MVD Academy, 22-26 September 2003
The workshop was organised on general human rights and *aspects of domestic violence*. The participants were from 7 different neighbouring areas (Volgograd, Kazan, Engelsk, Penza, Perm, Rostov and Saratov). It was the first time that the MVD in Saratov had organised an international workshop on human right issues.
– MVD University of St. Petersburg, 13-17 October 2003
The workshop was organised with on the same theme. The participants were militia officers and trainers from the whole North-Western area of the Russian Federation (Murmansk, Pskov, Petrozavodsk, Kaliningrad, Vyborg and St. Petersburg).

Support to the Ombudsperson in Kosovo

A training for the legal staff of the Ombudsperson Office in Kosovo was organised in Strasbourg from 24 to 26 September 2003. The aim of this activity was to increase the knowledge and skills of lawyers in European human rights standards. This training is part of a wider programme, which started three years ago, to promote the establishment and development of independent non-judicial mechanisms for the protection of HR in Kosovo. Thanks to recent voluntary contributions by Italy and Andorra, the Council of Europe will be able to strengthen its support to the Office of the Ombudsperson in Kosovo in 2004.

Site Internet : http://www.coe.int/awareness/

Committee of Ministers

The Committee of Ministers is the Council of Europe's decision-making body. It comprises the Foreign Affairs Ministers of all the member states, who are represented, outside the two annual ministerial sessions, by the permanent representatives of the member states to the Council of Europe. It is a place where national approaches to problems facing European society can be discussed on an equal footing, and where Europe-wide responses to such challenges are formulated. Guardian, together with the Parliamentary Assembly, of the Council's fundamental values, it also monitors member states' compliance with their undertakings.

Access to social rights

Recommendation Rec (2003) 19 (24 September 2003)

Affirming its commitment to the promotion of social rights as an integral part of human rights, the Committee of Ministers recommends the governments of member states to implement policies promoting access to social rights guided by the values of freedom, equality, dignity, and solidarity.

Freedom of expression and information

Declaration on the provision of information relating to criminal proceedings by the media (10 July 2003)

In this declaration the Committee of Ministers states its concern at the growing commercialisation of information in this field, as well as its desire to support the right to freedom and information.

The Ministers, *inter alia*, press the media to treat the accused as being innocent as long as their guilt has not been legally proven, to respect the dignity and the right to privacy of the persons implicated in the criminal process, and to avoid inciting xenophobia or violence.

Recommendation Rec (2003) 13 on the provision of information through the media in relation to criminal proceedings (10 July 2003)

Facing the necessity of balancing the possibly conflicting interests of rights protected by Articles 6, 8 and 10 of the European Convention on Human Rights – right to a fair trial, to respect for private life, and freedom of expression and information – the Committee of Ministers provides a certain number of principles concerning the provision of information through the media in relation to criminal proceedings. These stipulate, in particular, that judicial authorities and police should only provide the media verified information that carries no risk of being prejudicial to the fairness of the proceedings, that any information relating to legal reporting

Adopted texts

Treaties – or conventions – are binding legal instruments for the Contracting Parties.

Recommendations to member states are not binding and generally deal with matters on which the Committee has agreed a common policy.

Resolutions are mainly adopted by the Committee of Ministers in order to fulfil its functions under the European Convention on Human Rights, the European Social Charter and the Framework Convention for the Protection of National Minorities.

Declarations are usually adopted only at the biannual ministerial sessions.

Decisions of the Ministers' Deputies, issued as public documents, are published after each of their meetings. Taken in the name of the Committee of Ministers, they contain the full text of the decisions and adopted texts as well as the terms of reference of committees.

should be made available to the media, without discrimination, and that reporting carried out by the media from within court rooms should only be done with the express permission of the judicial authorities and only if there is no serious risk of undue influence of persons implicated in the penal process.

Reply to Recommendation 1589 (2003) of the Parliamentary Assembly on freedom of expression and information in the media in Europe (17 September 2003)

The Committee of Ministers considers freedom of expression and information in the media as an essential concern. In April 2003, it held a special meeting in order to examine the results brought before it by the Secretary General on the media situation in the member states as established by a team of independent experts further to contacts and collection of information. Some countries have already agreed to make public the reports concerning them, and other states are encouraged to do so. The Committee of Ministers invites the Secretary General to ensure proper follow-up in the co-operation and assistance programmes, and to bring to its attention any serious breaches of freedom of expression. It encourages all member states to request Council of Europe assistance when reviewing their relevant legislation and practice and to incorporate into them the case-law of the European Court on Human Rights.

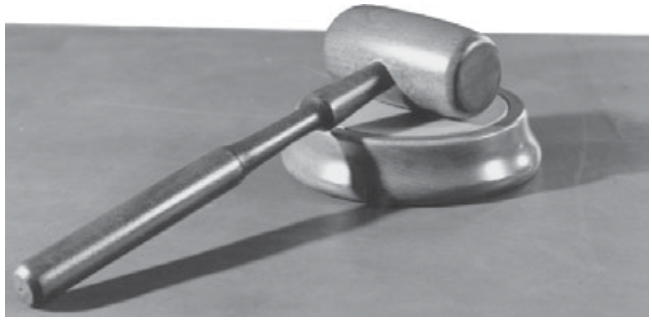
Functioning of justice

Recommendation Rec (2003) 16 on the execution of administrative and judicial decisions in the field of administrative law

Recalling, *inter alia*, that the execution of court decisions within a reasonable time is an integral part of the rights protected by the European Concention on Human Rights, the Committee of Ministers recommends member states to ensure the effective execution of administrative decisions by following the principles of good practice contained in the appendix to the recommendation. These concern, notably, the suspension of the implementation of a contested decision, the guarantees which should apply to the use of enforcement by administrative authorities, the necessity that administrative authorities implement judicial decisions within a reasonable period of time, the possibility to seize the property of the administrative authorities in the case of non-implementation of judicial decisions entailing an obligation to pay a sum of money.

Recommendation Rec (2003) 17 on enforcement of court judgments (9 September 2003)

Considering that member states have a duty to ensure that all persons who receive a final and binding court judgment have the right to its enforcement, the Committee of Ministers proposes to governements to adopt a certain number of guiding principles inorder for enforcement procedures to be as effective and efficient as possible.



Recommendation Rec (2003) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice (9 September 2003)

The Recommendation proposes a more strategic approach of juvenile delinquency and new responses. It provides, inter alia, guarantees concerning minors' police custody and remand in custody, and assesses that resocialising juvenile offenders should be the principal aim of their detention.

Recommendation Rec (2003) 22 on conditional release (24 September 2003)

The Committee of Ministers considers that it is desirable to reduce the length of prison sentences as much as possible, and that conditional release is one of the most effective and constructive means of preventing reoffending and promoting offenders' resettlement. It recommends member states to be guided in their legislation, policies and practice by commun principles.

Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners (9 October 2003)

Abolition of the death penalty in member states has resulted in an increase in the use of life sentences. The Committee of Ministers wishess that member states adopt common principles concerning the management of this prisoners, in compliance with the requirements embodied in the European Convention on Human Rights and its case-law.

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

Ukraine

Resolution 1346 (2003) and Recommendation 1622 (2003) on honouring of obligations and commitments by Ukraine – 29 September 2003

The Assembly noted with satisfaction that Ukraine has made progress in a number of areas. With regard to domestic legislation and implementation of reforms, the Assembly was pleased to note that judicial reforms and a new Civil Code have been adopted. Furthermore, concrete steps have been taken towards the ratification of the European Charter for Regional or Minority Languages and the adoption of a Civil Procedure Code.

Ukraine has also acceded to a number of important legal instruments of the Council of Europe, including Protocol No. 13 to the ECHR on the unconditional prohibition of the death penalty.

With regard to the remaining commitments in the fields of domestic legislation and implementation of reforms, the Assembly urged the Ukrainian authorities to continue their efforts, but also to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Ukrainian legislation and practice with the Organisation's principles and standards.

While the Assembly recognised that legal reforms have indeed advanced in many areas, it was nevertheless preoccupied by the lack of enforcement and recalled the need for a proper implementation of existing legislation. Accordingly, the Assembly urged the Ukrainian authorities to finalise adoption notably of the Civil Procedural Code and the Code on Criminal Procedure; and, with regard to the Code on Criminal Procedure, to fully implement the reform of the General Prosecutor's office, in accordance with Council of Europe principles and standards and to secure the full adherence of the state organs to the Rule of Law.

The Assembly noted that although the March 2002 parliamentary elections marked some improvement, several serious flaws still persisted, and perturbed the democratic consultation process. Concern also persisted regarding the conditions of detention in the country, especially in terms of ill-treatment, overcrowding, police malpractice and poor health care. The Assembly moreover found room for improvement in the areas of media freedom and independence, the protection of the status of the legal profession, violence against journalists.

It accordingly concluded that, although notable progress has been made, Ukraine has not yet honoured all obligations and commitments as a member state of the Council of Europe, and resolved to pursue the monitoring procedure in respect of Ukraine in close co-operation with the Ukrainian delegation.

In its Recommendation, the Assembly called upon the Committee of Ministers to encourage the Ukrainian authorities to strengthen co-operation with the Council of Europe in

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.

order to ensure full compatibility of Ukrainian legislation and practice with the Organisation's principles and standards; ask the competent Ukrainian authorities to provide for the needs of national minorities; to ask the Ukrainian authorities to fully implement the reform of the General Prosecutor's office and to intensify the co-operation programmes between the Council of Europe and Ukraine.

Iraq

Resolution 1351 (2003) and Recommendation 1628 (2003) on the role of the UN in Iraq – 2 October 2003

The Parliamentary Assembly expressed its deep concern in view of the lack of progress in the discussions on the role of the United Nations in the post-war future of Iraq and considered unilateral action a fundamental challenge to the principles of collective security and the United Nations Charter.

It also reiterated its call for Europe to act resolutely and to restore the unity of the international community on the basis of mutual respect and international law allowing the United Nations to fulfil its mandate as a prime source of legitimacy.

The Assembly considered that the existing divergence within the Security Council over the post-war management of Iraq is worrying not only because it has direct implications for the future of Iraq, but also because it will determine the role the United Nations will play in future crises. In this context, it expressed its support for the Secretary-General of the United Nations, Mr Kofi Annan, in his tireless calls for a multilateral approach and his proposals for radical changes within the United Nations, in particular the Security Council, in order to cope with similar future situations by improving not only its efficacy but also by making it more representative and thus increasing its legitimacy.

It is in the interest of the international community that Iraq should achieve political stability and sovereignty through a democratic process as soon as possible. The Assembly considered that the post-war management should be carried out under the leadership of the United Nations and welcomed the indications for the change in the attitude of the Bush administration towards a more multilateral approach in this respect.

It therefore called on the Governments of the member states to give their support to efforts towards a multilateral solution for the post-war future of Iraq; a rapid transfer of sovereignty to the Iraqi people; holding elections of a constituent assembly; a multinational force, under a United Nations' mandate, which would guarantee security in Iraq; and the principle that the ownership of Iraqi natural resources lies with the Iraqi people.

In its recommendation, the Assembly urged the Committee of Ministers to include the question of the post-war management of Iraq and the possible role of the Council of Europe in assisting the United Nations in building democratic institutions in the agenda of its next ministerial session.

Stem cell research

Resolution 1352 (2003) on human stem cell research – 2 October 2003

The Parliamentary Assembly noted that the aim of stem cell research is to add new tools for the development of treatments of several diseases which up to now have been incurable or not effectively curable.

It recalled, however, that the Council of Europe Convention on Human Rights and Biomedicine (Oviedo Convention) expressly states that "where the law allows research on embryos in vitro, it shall ensure adequate protection of the embryo" and suggested the details of this regulation be the subject of an additional protocol to be prepared by the Steering Committee on Bioethics (CDBI).

In view of the fact that the destruction of human beings for research purposes is against the right to life of all humans and against the moral ban on any instrumentalisation of humans, the Assembly calls on member states to promote stem cell research as long as it respects the life of human beings at all stages; encourage scientific techniques that are not socially and ethically divisive; sign and ratify the Oviedo Convention; promote common European basic research programmes in the field of adult stem cells; ensure that any research on stem cells is duly authorised and monitored; respect the decision of countries not to take part in such research programmes; and give priority to the ethical aspects of research over those of a purely utilitarian and financial nature.

Health-care reform

Recommendation 1626 (2003) on the reform of health care systems in Europe: reconciling equity, quality and efficiency – 1 October 2003

Seven years after the pledge made in 1996 by the Health Ministers of the European member states of the World Health Organization (WHO) to promote the principles outlined in the Ljubljana Charter on reforming health care in Europe, the Parliamentary Assembly notes that reform of health care systems in the member states of the Council of Europe has been a virtually continuous process which seeks to reconcile the often contradictory aims of maximising quality, efficiency and equality of access as well as guaranteeing the viability of the system, against a background of limited government resources and rapid demographic and technological change.

The Assembly considered that, in line with the Council of Europe's objective of greater social cohesion and solidarity, the main criterion for judging the success of health system reforms should be effective access to health care for all without discrimination, a basic human right, and, as a consequence, improvement in the general standard of health and welfare of the entire population.

Given the increasingly international nature of threats to health and demands on health care systems, for example through epidemics, "health tourism", recruitment of medical

staff, or bio-terrorism, the Parliamentary Assembly considered that health policies should be made part of European Union/ Community competence in the Constitutional Treaty.

The Parliamentary Assembly therefore recommended that the Committee of Ministers, in particular, reaffirm the role of the state in regulating health care systems; step up its assistance programmes in the health field; study the trends in member states' health policies; and call on the member states to support the role of citizen and patient in health care systems.

Exhibition of works symbolising Romania's 10 years of Council of Europe membership, Parliamentary Assembly Session September 2003

Contraception

Resolution 1347 (2003) on the impact of the "Mexico City Policy" on the free choice of contraception in Europe – 30 September 2003

The World Health Organization (WHO) estimates that, every year, over 500 000 women die worldwide as a result of pregnancy related causes; seven million more become ill or disabled. In addition, some 40 million abortions occur each year, often under unsafe conditions – claiming another 70 000 lives. In the developing world, pregnancy and childbirth remain the greatest single threat to a woman's health in her reproductive years.

Several international organisations and NGOs are working hard to realise the Cairo programme of action and the Ottawa Statement of Commitment, which fixed international objectives in this area. The United States of America is the largest individual country donor to the "international population assistance", contributing 43% of all funds for family planning, maternal and child health care and sexually transmitted diseases, including HIV/AIDS. However, one of the first actions of the Bush Presidency was to restore the "Mexico City Policy".

This policy, first announced during Ronald Reagan's Presidency and later rescinded by President Bill Clinton in 1993, lays down that United States federal foreign assistance funds cannot be granted to foreign NGOs performing abortions or lobbying to make abortion legal. Its restrictive interpretation means that all foreign NGOs have to ensure that abortion and family planning remain completely separate and independent of one another to avoid losing US federal funds.

The impact of the Mexico City Policy has resulted in considerable loss of funding for international NGOs unable or unwilling to submit to its restrictive interpretation. While some European governments have stepped up their donor aid in response to the reinstatement of the Mexico City Policy, they have not been able to bridge the entire gap.

Ironically, the impact of the Mexico City Policy thus is the opposite of its intention: as clinics close and access to reproductive services becomes more difficult for lack of funding, fewer poor women in Europe and worldwide can afford contraception, leading to an increase in unwanted pregnancies – and consequently abortions, many of them unsafe. This, again, drives up the maternal mortality rate.

The Parliamentary Assembly thus calls on the parliaments and governments of its member states, in particular, to ensure that, in their own countries, sex education, reproductive health and family planning services meet international standards; not to promote abortion as a method of family planning, but to ensure that it remains safe and accessible where it is not against the law; and to consolidate and increase their donor support for reproductive and sexual health programmes.

Migrants

Recommendation 1624 (2003) on common policy on migration and asylum – 30 September 2003

The Parliamentary Assembly expressed its concern that major differences in migration and asylum law and policy may produce considerable disparities in the treatment that different Council of Europe member states afford to migrants, asylum-seekers and refugees.

It therefore adopted the view that a Council of Europe common policy on migration and asylum is necessary, consisting of minimum standards which should be shared by all Council of Europe member states. Such a common policy would contribute to creating a Europe-wide area where migrants and people in need of international protection enjoy treatment in line with human rights, the principle of rule of law, access to basic rights and to legal remedies and, consistent with its role and expertise, could be placed in the context of the protection of human rights and the respect for dignity of the person, and in particular of the European Convention on Human Rights.

The Assembly therefore recommended that the Committee of Ministers instruct its relevant Committees to elaborate a model for a Council of Europe common policy on migration and asylum, taking into account, inter alia, border controls; detention on immigration/asylum grounds; the fairness of immigration/asylum procedures; access to interpretation and legal advice and representation; duration of the asylum procedure, which should not exceed six months; expulsion measures; the particular situation of minors; trafficking and smuggling; and off-territory asylum processing arrangements.

Recommendation 1625 (2003) on policies for the integration of immigrants in Council of Europe member states – 30 September 2003

The Assembly expressed its regret that, since 11 September 2001, the immigration debate has been dominated by security and border control concerns, to the detriment of integration policies, and that a certain rhetoric has developed in the media and the public opinion often stigmatising immigrants.

Bearing in mind the fact that millions of immigrants enjoy legal residence in Council of Europe member states and want to participate fully in the life of the host country and respect its democratic rules and values, the Assembly recommended that the Committee of Ministers promote research on integration strategies and activities to foster inter-cultural dialogue between immigrant and non-immigrant communities

It also called on member states to set up administrative structures and programmes to steer and monitor the integration of immigrants; to encourage the active involvement of immigrants in local political life, including the right to vote and stand for election under certain conditions; to allow dual or multiple citizenship; and to facilitate family reunion.

Recommendation 1618 (2003) on migrants in irregular employment in the agricultural sector of southern European countries – 8 September 2003

The Parliamentary Assembly noted that reliance on migrant labour has become a characteristic feature of Mediterranean agriculture, especially for seasonal activities where a large workforce may be needed at short notice and for brief periods. Many of these migrants are undeclared, work for sub-minimum wages, make no social security contributions and are often subjected to abuse, exploitation and even racist or violent outbreaks.

The Assembly expressed its regret that, despite the foreseeable lack of a national seasonal workforce, Council of Europe member states often do not have clear, transparent and coherent policies for the recruitment of migrant seasonal workers and their subsequent access to basic social and labour rights.

It therefore recommended that the Committee of Ministers instruct its relevant committees to conduct research on this issue and called on member states to set up migration management systems in response to the demand for labour in agriculture; grant seasonal or temporary work permits entitling holders to full access to social security in the host country, amongst other rights; and introduce and enforce an appropriate legal framework to penalise employers of clandestine workers in agriculture.

Recommendation 1619 (2003) on the rights of elderly migrants – 8 September 2003

The proportion of the immigrant population over 55 years of age of Council of Europe member states is due to increase in the next decades. Some of them have a history of hard physical labour or bad working conditions; others come from countries with low life expectancy; others have experienced stress due to racism, discrimination or poverty. Due to their past experience and age, these migrants can be considered as elderly.

In the Assembly's view a coherent policy is needed to address the situation of elderly migrants. Comprehensive action should be taken to protect the rights of elderly migrants, ensure their social inclusion and well-being at a delicate stage of their life, and make sure that they are not subjected to a dual discrimination, both as elderly people and as migrants.

The Assembly therefore recommended that the Committee of Ministers call on member states to develop coherent and comprehensive policies to address this issue, including measures dealing with pension rights, naturalisation criteria, health care and assistance, housing and cultural and educational activities involving elderly migrants.

Gender issues

Resolution 1348 (2003) on gender-balanced representation in the Parliamentary Assembly – 30 September 2003

The Assembly noted that all national parliaments of member states include women members, and that their percentage ranges from 3.1% to 45%, but considered that a truly representative parliament should reflect the electorate it seeks to serve, half of whom are women. It therefore proposed to introduce parity thresholds for candidates in elections at all levels and to promote greater women's participation in political life inter alia by means of education, through media awareness-raising campaigns and a more balanced representation of women in national parliaments.

It also expressed it conviction that new initiatives are necessary in favour of a better-balanced gender representation in the national delegations to the Assembly and considered that the principle of gender equality should be better respected in the composition of all the Assembly's structures.

The Assembly consequently called upon national parliaments, national delegations and political groups of the Parliamentary Assembly to ensure equal representation in their respective bodies. It furthermore decided to modify the Assembly's Rules of Procedure to establish minimum standards in terms of equal representation in national delegations. These changes shall enter into force at the opening of the Parliamentary Assembly's January 2004 part-session and that their effectiveness shall be reviewed by the Assembly in two years' time.

Intolerance and extremism in Europe

Resolution 1344 (2003) on the threat posed to democracy by extremist parties and movements in Europe – 29 September 2003

The Parliamentary Assembly noted with concern the resurgence of extremist movements and parties in Europe

and considers that no member state is immune to the intrinsic threats that extremism poses to democracy.

Extremism, whatever its nature, is a form of political activity that overtly or covertly rejects the principles of parliamentary democracy and very often bases its ideology, and its political practices and conduct, on intolerance, exclusion, xenophobia, anti-Semitism and ultra-nationalism.

Extremism relies on social discontent and proposes simplistic and stereotyped solutions in response to the anxieties and uncertainties felt by certain social groups in the face of the changes affecting our societies, shifting responsibility for these difficulties onto the inability of representative democracy to meet the challenges of today's world and the incapacity of elected representatives and institutions to address citizens' expectations, or it designates a particular section of the population as responsible or as a potential threat.

The fanaticism it engenders can serve as a pretext for the use and justification of violence. It is both a direct threat because it jeopardises the democratic constitutional order and freedoms, and an indirect threat because it can distort political life. Traditional political parties may be tempted to adopt the issues and demagogical discourse specific to extremist parties in order to counter their increasing electoral popularity.

In addition, democracies fighting extremism face the difficult task of striking a balance between guaranteeing freedom of expression, assembly and association and safeguarding democratic principles and human rights.

In this connection, the Assembly considered that these restrictive measures can only be used to tackle the roots of extremism if they are supported by public opinion and are accompanied by additional measures concerned with political ethics or in the fields of education or information. It furthermore noted that civil society constitutes an essential link between society and government and is often a key political ally in promoting human rights and democracy.

The Assembly therefore invited the governments of member states to ensure that the requirements of the ECHR are respected in the fight against extremism; to enact and apply, as the case may be, effective legal penalties for extremist parties or movements; to encourage education for democratic citizenship based on citizens' rights and duties, social tolerance and respect for difference and to encourage civil society to overcome all forms of extremism and intolerance.

Resolution 1345 (2003) on racist, xenophobic and intolerant discourse in politics – 29 September 2003

The Assembly underlined the importance of the right of the citizens all sovereign states to choose their political representative in free and fair elections, but stressed that this right cannot stand in the way of full respect for Articles 13 and 14 of the ECHR, which respectively guarantee the right to an effective remedy and the prohibition of discrimination. This is particularly true when the freedoms of expression and of assembly and association, enshrined in Articles 10 and 11 of the Convention are exercised.

In order to reinforce respect for the rule of law and non-discriminatory protection of human rights and fundamental freedoms, the Assembly recommended member states to sign the Charter of Political Parties for a Non-Racist Society; ratify and implement fully Protocol No. 12 of the ECHR and to take appropriate measures, legal or otherwise, to dispel any manifestations of racism, xenophobia and intolerance in political life.

Exhibition of works symbolising Romania's 10 years of Council of Europe membership, Parliamentary Assembly Session September 2003

National minorities

Recommendation 1623 (2003) on the rights of national minorities – 29 September 2003

The Assembly welcomed the success of the Framework Convention for the Protection of National Minorities, a privileged instrument in the field of protection of national minorities, which celebrated the fifth anniversary of its entry into force this year, marking a new stage in the development of the minority protection system within the Council of Europe.

Pointing out that seven member states have signed but not ratified the Framework Convention, and that a further three have yet to sign it, the Assembly reiterated its demand for a swift signature and/or ratification by member states without reservations/declarations. Persistent refusal to sign or ratify this instrument, and to implement its standards, should be the subject of particular attention in the monitoring procedures.

In line with the view of the Advisory Committee and the Committee of Ministers, the Assembly considered that states parties do not have an unconditional right to decide which groups qualify as national minorities in the sense of the Framework Convention and that any decision of the kind must respect the principle of non-discrimination and comply with the letter and spirit of the Framework Convention.

The Assembly also called on states parties to provide for the freedom of expression of national minorities and the free use of national minorities' languages in areas where they live in substantial numbers and to ensure parliamentary representation of minorities

It further recommended that the Committee of Ministers, in particular, draft an additional protocol to the Framework Convention conferring on the European Court of Human Rights the power to give advisory opinions on its

interpretation; revise the rules governing the monitoring procedure of the Framework Convention and continue its co-operation with the European Union.

Democracy and legal development

Death penalty

Resolution 1349 (2003) and Recommendation 1627 (2003) on abolition of the death penalty in Council of Europe observer states – 1 October 2003

The Assembly once more reaffirmed its complete opposition to capital punishment, which has no legitimate place in the penal systems of modern civilised societies and recalled that a state wishing to become a Council of Europe observer state has to be willing to accept the principles of democracy, the rule of law and the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms. Nevertheless, Japan and the United States of America (both granted observer status in 1996) continue to carry out executions.

It was pleased to note that the dialogue with Japanese parliamentarians has been fruitful and on-going, although Japan has not yet abolished the death penalty. In contrast, the Assembly has largely failed in its efforts to promote transatlantic parliamentary dialogue.

The Assembly thus found Japan and the United States, once more, in violation of their fundamental obligations as Observer states and called upon them to take the necessary steps to institute a moratorium on executions with a view to abolishing the death penalty.

The Assembly thus resolved to intensify its dialogue with parliamentarians from Japan and to continue its efforts to enter into a dialogue with parliamentarians from the United States of America (both state and federal).

In its recommendation, the Assembly recommended that the Committee of Ministers intensify its dialogue on the abolition of the death penalty with the governments of these countries and set a minimum requirement for existing observer states in terms of their willingness to engage in a fruitful dialogue at parliamentary and governmental level with the Council of Europe on the abolition of the death penalty.

Election observation missions

Azerbaijan presidential election

Voting in the 15 October Azerbaijan presidential election was generally well administered in most polling stations but the overall election process still fell short of international standards in several respects. International observers noted a number of irregularities in the counting and tabulation.

Of special concern were numerous instances of violence, including on election night. In general, campaign conditions were manifestly unequal. A pattern of intimidation against opposition supporters overshadowed the political atmosphere. Access of opposition candidates to state and independent media, apart from free airtime, was severely out of balance. Opposition candidates were faced with serious restrictions on political rallies.

Exhibition on "Embroidery of Macedonian Folk Costumes", Parliamentary Assembly Session September 2003

There were nonetheless some positive aspects. Voters had a genuine choice among eight candidates. There was an active campaign, with public participation. Opposition candidates were able to criticise the authorities. The new election code incorporated more safeguards against fraud. The Central Election Commission published immediate and detailed precinct results, as requested. This gave an unprecedented degree of transparency to the election.

Presidential election in Chechnya

Strasbourg, 26.09.2003 – The Bureau of the Council of Europe Parliamentary Assembly considered that, given the difficult security situation in the Chechen Republic, it would not send an observer delegation for the Presidential election on 5 October.

Parliamentary elections in Georgia

A five-member Assembly "pre-election" delegation, consisting of one member from each of the Assembly's political groups, visited Georgia from 7 to 11 October 2003 to assess preparations for the parliamentary elections on 2 November, in keeping with the practice of systematically observing elections in member states undergoing monitoring and applicant countries.

Parliamentary elections in Russia

A five-member Assembly "pre-election" delegation visited Russia from 28 October to 1 November 2003 to assess preparations for the parliamentary elections on 7 December. The delegation met the leaders of political groups in the State Duma, the Chair of the Central Election Commission, the President of the Constitutional Court and the Minister for

Press, Broadcasting and Media, as well as representatives of the media and civil society. A full delegation of up to 35 Assembly members will observe the polling on election day as part of an international election observation mission.

Statements of the Parliamentary Assembly President

Post-electoral developments in Azerbaijan

Assembly President Peter Schieder and Secretary General Walter Schwimmer voiced deep concern on 20 October 2003 about reports of alleged arrests of journalists and opposition leaders, excessive use of police force against protesters, as well as the seizure of opposition newspapers in post-election Azerbaijan. They called for an immediate investigation into the reported incidents and recalled that the Azeri authorities are obliged to protect the personal safety and the professional integrity of journalists who are performing their professional duties.

They appealed to both opposition and the government to exercise restraint and to abstain from reacting to provocations in order to calm the heated post-election atmosphere in the country and reminded both sides of the pressing need for constructive dialogue and urged them to settle disputes by political means and within the framework of the rule of law, in line with the commitments the country made when joining the Council of Europe in 2001.

"The events after the presidential election have deepened our concerns about Azerbaijan's willingness to respect Council of Europe standards. At its meeting on 6 November, the Bureau of the Assembly will consider a report of its Electoral Mission to Azerbaijan and discuss follow-up," Peter Schieder said.

International Criminal Court

Secretary General Walter Schwimmer and Assembly President Peter Schieder expressed their full support for the International Criminal Court (ICC) on 18 September 2003.

"The ICC will deal a blow to the impunity all too often associated with genocide, crimes against humanity and war crimes, and will hold those accused of these horrific acts to account under the highest standards of international justice, thus strengthening the rule of law worldwide," Peter Schieder said, addressing the Organisation's Committee of Legal Advisers on Public International Law (CAHDI).

Montenegrin parliamentary boycott

Peter Schieder today made the following statement on the ongoing parliamentary crisis in Montenegro on 12 September 2003:

"I am concerned about the opposition's continued boycott, since May, of the work of the Montenegrin parliament. I do not contest the legitimacy of their grievances concerning the live broadcast of parliamentary sessions, but the obstruction of democratic procedure is not an appropriate way to resolve this situation. Furthermore, the absence of the opposition in the Parliament is blocking progress on the constitutional amendments related to the adoption of the Constitutional Charter between Serbia and Montenegro, thus jeopardising the normal functioning of the state community.

"I therefore call on the opposition parties to return to the parliament, and engage in a dialogue to end this dispute with an agreement which should be in line with European standards. The Council of Europe, as it has done so far, is ready to assist all the parties concerned in this process."

Abolition of death penalty in Armenia

Assembly President Peter Schieder and Secretary General Walter Schwimmer welcomed the decision by the National Assembly of Armenia to abolish the death penalty and to ratify Protocol No. 6 to the European Convention on Human Rights on 9 September 2003.

"This important step brings Europe closer to total abolition of the death penalty, which is one of our Organisation's priorities. We strongly encourage the Armenian authorities to continue fulfilling the commitments made by the country when it joined the Council of Europe," they stressed.

The Armenian Parliament voted 92 to 1 in favour of the abolition of the death penalty and to ratify Protocol No. 6 to the European Convention on Human Rights abolishing capital punishment.

UN Resolution on aid workers

Peter Schieder welcomed the unanimously adopted UN Resolution 1502 on 27 August 2003, which strongly condemned violence against humanitarian workers and called for increased action to ensure their safety.

"Against the background of last week's murderous attack on the UN headquarters in Baghdad we must welcome every decision which may effectively deter future attacks on staff involved in humanitarian assistance or peacekeeping missions. It is important to recall that such attacks constitute a war crime.

"The most pressing concern now is to make sure that the perpetrators of such attacks will no longer go unpunished. This was exactly the purpose for which the International Criminal Court was set up.

"The full and unconditional support of all international key actors would strengthen the ICC's role of deterrent and thus contribute to the preservation of stability and peace in the world," Mr Schieder said.

"International justice is not only for the Balkans"

Addressing the Parliament of Serbia and Montenegro on 17 July 2003 as its first foreign guest, Assembly President Peter Schieder stressed that he came to encourage the youngest state on the continent "to persist in its efforts to change its status within Europe – from being a part of an old problem to being a partner in new solutions".

"Since Serbia and Montenegro joined the Council of Europe, significant progress has been made in terms of co-operation with the Tribunal in The Hague. I should like to encourage the authorities to continue to observe their international obligations to the full, while doing their best to improve public understanding of the Tribunal's role. This is, first and foremost, in the interest of the country. If those responsible for the worst crimes imaginable are allowed to walk free, or are even treated as heroes, the past wrongs of the few will continue to pollute the future of all," he said.

With regard to US pressure on a number of Council of Europe member states to conclude bilateral immunity agreements limiting the jurisdiction of the ICC, he said that the authorities' attitude so far had done them honour and encouraged them to continue to resist the pressure. "Politics aside, this is ultimately a question of principle. International justice is not only for the Balkans. Genocide, war crimes and crimes against humanity must no longer go unpunished – wherever in the world they take place," he stressed.

Mr Schieder warned against a half-hearted approach to reform. He stressed that the fight against corruption and organised crime and the effort to control the security forces and the intelligence services must go all the way. "As in medicine, you must take all your pills, or risk developing a drug-resistant disease," he said.

Finally, Mr Schieder called for the country's authorities to help build a democratic, multi-ethnic entity in Kosovo and contribute to dialogue on its future status.

Guest speakers to PACE

Peter Medgyessy, Hungarian Prime Minister

The Hungarian Prime Minister Peter Medgyessy recalled that Europe is not just a continent but also a spiritual entity. "Your organisation is a faithful reflection of this spirit, and is making a major contribution to our common future," he said, stressing in particular the importance of the Council of Europe's activities aimed at protecting minorities.

He announced the Hungarian government's offers of assistance in setting up a European centre in Budapest for national and ethnic minorities. "I believe it is important that this centre, besides exploring the scientific aspects of the rights of traditional national minorities, should also look at the problems facing new migrant minorities," he underlined.

Vladimir Voronin, Moldovan President

President Vladimir Voronin, addressing the Parliamentary Assembly on 1 October, said that the Council of Europe's activities in his country had helped settle a number of difficult problems and that the introduction of European standards had had a very positive effect on the country's political process.

This valuable experience, he said, would contribute to another ambitious goal, that of joining the European Union. A third Council of Europe summit was necessary, he added, to enable heads of state and government to review the major challenges facing Europe in the third millennium.

Adrian Nastase, Romanian Prime Minister

The Romanian Prime Minister described the Council of Europe as a key partner along the road to institutional reform begun in 1990, enabling Romania to make the move from a transition state to an established democracy.

Recognising that the equal treatment of minorities is a key factor in European security, he welcomed the good relations that had developed with the Hungarian authorities, saying that: "Romania and Hungary have together won a fight for democratic stability in Europe."

Pat Cox, President of the European Parliament

Addressing the Parliamentary Assembly, Pat Cox emphasised the productive synergies between the European Union and Council of Europe which have enabled progress towards a Europe of peace, stability and respect for fundamental rights.

He welcomed both the steps made towards the accession of the European Union to the European Convention on Human Rights and the signature by both Presidents, at the end of the two assemblies' joint meeting, of the Charter of European Political Parties for a Non-Racist Society.

Donald Johnston, OECD Secretary General

Speaking before the Assembly, Donald Johnston stressed that his Organisation's work in the field of sustainable development was as indispensable as ever, "a priority today for governments and OECD as an organisation."

"We should concentrate on improving our understanding of trade-offs between the three sectors – environment, economy and society," he continued, adding that sustainable development can only be achieved when an increase in one sector does not diminish the others.

For more information on these and other topics, see:

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

Appendix
Simplified chart of 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	European Social Charter (Revised)	CPT	FCNM Framework Convention for the Protection of National Minorities
Albania	02.10.96	02.10.96	02.10.96	21.09.00	02.10.96				14.11.02	02.10.96	28.09.99
Andorra	22.01.96			22.01.96			26.03.03			06.01.97	
Armenia	26.04.02	26.04.02	26.04.02	**29.09.03**	26.04.02					18.06.02	20.07.98
Austria	03.09.58	03.09.58	18.09.69	05.01.84	14.05.86			29.10.69		06.01.89	31.03.98
Azerbaijan	15.04.02	15.04.02	15.04.02	15.04.02	15.04.02					15.04.02	26/06/00 a
Belgium	14.06.55	14.06.55	21.09.70	10.12.98			23.06.03	16.10.90		23.07.91	
Bosnia and Herzegovina	12.07.02	12.07.02	12.07.02	12.07.02	12.07.02	**29.07.03**	**29.07.03**			12.07.02	24/02/00 a
Bulgaria	07.09.92	07.09.92	04.11.00	29.09.99	04.11.00		13.02.03		07.06.00	03.05.94	07.05.99
Croatia	05.11.97	05.11.97	05.11.97	05.11.97	05.11.97	03.02.03	03.02.03	26.02.03		11.10.97	11.10.97
Cyprus	06.10.62	06.10.62	03.10.89	19.01.00	15.09.00	30.04.02	12.03.03	07.03.68	27.09.00	03.04.89	04.06.96
Czech Republic	18.03.92	18.03.92	18.03.92	18.03.92	18.03.92			03.11.99		07.09.95	18.12.97
Denmark	13.04.53	13.04.53	30.09.64	01.12.83	18.08.88		28.11.02	03.03.65		02.05.89	22.09.97
Estonia	16.04.96	16.04.96	16.04.96	17.04.98	16.04.96				11.09.00	06.11.96	06.01.97
Finland	10.05.90	10.05.90	10.05.90	10.05.90	10.05.90			29.04.91	21.06.02	20.12.90	03.10.97
France	03.05.74	03.05.74	03.05.74	17.02.86	17.02.86			09.03.73	07.05.99	09.01.89	
Georgia	20.05.99	07.06.02	13.04.00	13.04.00	13.04.00	15.06.01	22.05.03			20.06.00	
Germany	05.12.52	13.02.57	01.06.68	05.07.89				27.01.65		21.02.90	10.09.97
Greece	28.11.74	28.11.74		08.09.98	29.10.87			06.06.84		02.08.91	
Hungary	05.11.92	05.11.92	05.11.92	05.11.92	05.11.92		**16.07.03**	08.07.99		04.11.93	25.09.95
Iceland	29.06.53	29.06.53	16.11.67	22.05.87	22.05.87			15.01.76		19.06.90	
Ireland	25.02.53	25.02.53	29.10.68	24.06.94	03.08.01		03.05.02	07.10.64	04.11.00	14.03.88	07.05.99
Italy	26.10.55	26.10.55	27.05.82	29.12.88	07.11.91			22.10.65	05.07.99	29.12.88	03.11.97
Latvia	27.06.97	27.06.97	27.06.97	07.05.99	27.06.97			31.01.02		10.02.98	
Liechtenstein	08.09.82	14.11.95		15.11.90			05.12.02			12.09.91	18.11.97
Lithuania	20.06.95	24.05.96	20.06.95	08.07.99	20.06.95				29.06.01	26.11.98	23.03.00
Luxembourg	03.09.53	03.09.53	02.05.68	19.02.85	19.04.89			10.10.91		06.09.88	
Malta	23.01.67	23.01.67	05.06.02	26.03.91	15.01.03		03.05.02	04.10.88		07.03.88	10.02.98
Moldova	12.09.97	12.09.97	12.09.97	12.09.97	12.09.97				08.11.01	02.10.97	20.11.96

	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**	**European Social Charter (Revised)**	**CPT**	**FCNM** Framework Convention for the Protection of National Minorities
Netherlands	31.08.54	31.08.54	23.06.82	25.04.86				22.04.80		12.10.88	
Norway	15.01.52	18.12.52	12.06.64	25.10.88	25.10.88			26.10.62	07.05.01	21.04.89	17.03.99
Poland	19.01.93	10.10.94	10.10.94	30.10.00	04.12.02			25.06.97		10.10.94	20.12.00
Portugal	09.11.78	09.11.78	09.11.78	02.10.86			**03.10.03**	30.09.91	30.05.02	29.03.90	07.05.02
Romania	20.06.94	20.06.94	20.06.94	20.06.94	20.06.94		07.04.03		07.05.99	04.10.94	11.05.95
Russia	05.05.98	05.05.98	05.05.98		05.05.98					05.05.98	21.08.98
San Marino	22.03.89	22.03.89	22.03.89	22.03.89	22.03.89	25.04.03	25.04.03			31.01.90	05.12.96
Serbia and Montenegro											11/05/01 a
Slovakia	18.03.92	18.03.92	18.03.92	18.03.92	18.03.92			22.06.98		11.05.94	14.09.95
Slovenia	28.06.94	28.06.94	28.06.94	28.06.94	28.06.94				07.05.99	02.02.94	25.03.98
Spain	04.10.79	27.11.90		14.01.85				06.05.80		02.05.89	01.09.95
Sweden	04.02.52	22.06.53	13.06.64	09.02.84	08.11.85		22.04.03	17.12.62	29.05.98	21.06.88	09.02.00
Switzerland	28.11.74			13.10.87	24.02.88		03.05.02			07.10.88	21.10.98
"the former Yugoslav Republic of Macedonia"	10.04.97	10.04.97	10.04.97	10.04.97	10.04.97					06.06.97	10.04.97
Turkey	18.05.54	18.05.54		12.11.03				24.11.89		26.02.88	
Ukraine	11.09.97	11.09.97	11.09.97	04.04.00	11.09.97		11.03.03			05.05.97	26.01.98
United Kingdom	08.03.51	03.11.52		20.05.99			**10.10.03**	11.07.62		24.06.88	15.01.98

Updated: 09.12.03
Ratifications between **01.07.03** and **31.10.03** are highlighted

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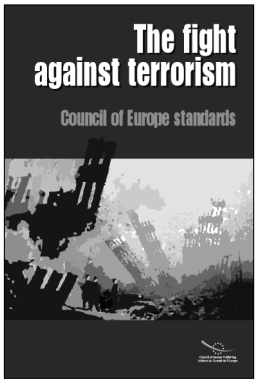

The fight against terrorism – Council of Europe standards *(December 2003)*

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This book contains these texts and is intended to provide a handy, comprehensive document.

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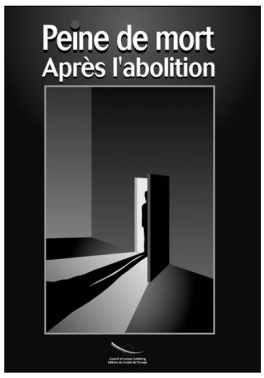
ISBN 92-871-5367-1 – Format: 16 x 24 cm, 300 pages – Prix: 23 € / 35 US$

Death penalty – Beyond abolition *(January 2004)*



Introduced by Roger Hood, an international expert on death penalty legislation, this book reviews the long and sometimes tortuous path to abolition in Europe. It also addresses the tangible problems which countries face once the death penalty has been abolished, and related issues: the situation of murder victims' families and alternatives to capital punishment, particularly the choice of a substitute sentence.

The Council of Europe's campaign for abolition is currently being pursued beyond Europe's borders, in those states which have Observer status with the organisation, particularly the United States and Japan: the situation in these countries is discussed here.

This publication will be of interest to all those who feel concerned by this issue, particularly members of NGOs, lawyers, officials in departments dealing with legal and criminal affairs, and human rights campaigners.

ISBN 92-871-5333-7 – Format: 16x24 cm, 250 pages – Price: €28 / US$42

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Préfacé par Robert Badinter, principal artisan de l'abolition en France, le présent ouvrage retrace le chemin long et parfois laborieux pour parvenir à l'abolition en Europe. Il aborde également les problèmes qui se posent concrètement pour les États après l'abolition et en marge de celle-ci : la situation des victimes d'homicides et les alternatives à la peine capitale, notamment le choix d'une peine de remplacement.

Aujourd'hui, l'action du Conseil de l'Europe pour l'abolition se poursuit, au-delà de l'Europe, en direction des Etats ayant le statut d'observateur auprès de l'Organisation, en particulier les Etats-Unis et le Japon, dont la situation est évoquée ici.

La publication intéressera tous ceux qui se sentent concernés par cette question, notamment les membres d'ONG, les juristes praticiens, les fonctionnaires de l'administration judiciaire et pénale ainsi que les militants pour la défense des droits de la personne.

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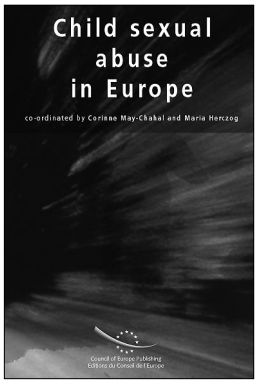

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