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Human rights information bulletin

No. 66, 1 July-31 October 2005

Open Day at the Council of Europe, 18 September 2005

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European human rights institutes

Appendix

Treaties and conventions

Signatures and ratifications

Signatures and ratifications of Council of Europe treaties in the field of human rights between 1 July and 31 October 2005.

See also the simplified table of ratifications, page 89.

Bulgaria

On 23 September 2005 Bulgaria signed Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

Georgia

On 22 August 2005 Georgia ratified the European Social Charter (Revised).

On 19 October 2005 Georgia signed the Council of Europe Convention on Action against Trafficking in Human Beings.

Greece

On 5 August 2005 Greece ratified Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

Liechtenstein

On 7 September 2005 Liechtenstein ratified Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

Lithuania

On 1 July 2005 Lithuania ratified Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

Malta

On 27 July 2005 Malta signed and ratified the European Social Charter (Revised).

Moldova

On 22 August 2005 Moldova ratified Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

Norway

On 16 August 2005 Norway ratified Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances.

Poland

On 25 October 2005 Poland signed the European Social Charter (Revised).

Serbia and Montenegro

On 6 September 2005 Serbia and Montenegro ratified Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention.

Slovakia

On 18 August 2005 Slovakia ratified Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances.

Spain

On 4 October 2005 Spain signed Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

Reservations and declarations

European Social Charter (Revised)

Georgia

Declaration contained in the instrument of ratification deposited on 22 August 2005 – Or. Engl.

In accordance with Part III, Article A, paragraph 1, of the revised European Social Charter, Georgia considers itself bound by the following Articles and Paragraphs of the Charter:

Article 1, paragraphs 1, 2, 3, 4; Article 2, paragraphs 1, 2, 5, 7; Article 4, paragraphs 2, 3, 4; Article 5; Article 6, paragraphs 1, 2, 3, 4; Article 7, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; Article 8, paragraphs 3, 4, 5; Article 10, paragraphs 2, 4; Article 11, paragraphs 1, 2, 3; Article 12, paragraphs 1, 3; Article 14, paragraphs 1, 2; Article 15, paragraph 3; Article 17, paragraph 1; Article 18, paragraphs 1, 2, 3, 4; Article 19, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12; Article 20; Article 26, paragraphs 1, 2; Article 27, paragraphs 1, 2, 3; Article 29.

Malta

Declaration contained in a Note Verbale of the Ministry of Foreign Affairs of Malta, handed over at the time of deposit of the instrument of ratification, on 27 July 2005 – Or. Engl.

In accordance with Part III, Article A, of the Charter, the Republic of Malta considers itself bound by the following Articles and paragraphs of Part II:

Article 1 – the right to work (paragraphs 1 to 4); Article 2 – the right to just conditions of work (paragraphs 1 to 3, 5 and 6); Article 3 – the right to safe and healthy working conditions (paragraphs 1 to 4); Article 4 – the right to a fair remuneration (paragraphs 1 to 5); Article 5 – the right to organise; Article 6 – the right to bargain collectively (paragraphs 1 to 4); Article 7 – the right of children and young persons to protection (paragraphs 1 to 10); Article 8 – the right of employed women to protection of maternity (paragraphs 1, 2, 4 and 5); Article 9 – the right to vocational guidance; Article 10 – the right to vocational training (paragraphs 1 to 5a and 5d); Article 11 – the right to protection of health (paragraphs 1 to 3); Article 12 – the right to social security (paragraphs 1, 3 and 4a); Article 13 – the right to social and medical assistance (paragraphs 1 to 4); Article 14 – the right to benefit from social welfare services (paragraphs 1 and 2); Article 15 – the right of persons with disabilities to independence, social integration and participation in the life of the community (paragraphs 1 to 3); Article 16 – The right of the family to social, legal and economic protection; Article 17 – The right of children and young persons to social, legal and economic protection (paragraphs 1 and 2); Article 18 – The right to engage in a gainful occupation in the territory of other Parties (paragraph 4); Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex; Article 23 – The right of elderly persons to social protection; Article 24 – The right to protection in cases of termination of employment; Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer; Article 26 – The right to dignity at work (paragraphs 1 and 2); Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment (paragraphs 2 and 3); Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them; Article 29 – The right to information and consultation in collective redundancy procedures.

Protocol No. 14 to the European Convention on Human Rights

Moldova

Declaration contained in the instrument of ratification deposited on 22 August 2005 – Or. Engl.

Until the full establishment of the territorial integrity of the Republic of Moldova, the provisions of the Protocol shall be apply only on the territory controlled by the Government of the Republic of Moldova.

Further information: http://conventions.coe.int/

Open Day

The Council of Europe held an "Open Day" for the general public on Sunday 18 September 2005, which attracted over 5 000 visitors. This event was organised within the framework of the "European Heritage Days" (EHD), officially instituted in 1991, with the support of the European Union. Since 1999 the EHD have been run as a joint initiative with the European Union.

Open Day at the Council of Europe, 18 September 2005

Two major themes: the fight against terrorism and the fight against human trafficking.

The Council of Europe held an "Open Day" for the general public on Sunday 18 September, from 09.00 to 18.00.

Crowds gather outside the Council of Europe

The programme included a tour around the Palais de l'Europe, with photo exhibitions along the way showing the construction of wider Europe, as well as various events centred on two priority activities defined by the Warsaw Summit of 16-17 May 2005: the fights against terrorism and human trafficking. There was also a quiz on the Council of Europe, radio and video shows, and the launch of two new stamps in the presence of Tomi Ungerer, who designed one of them.

Tomi Ungerer signs his stamp design

Message by Terry Davis, Secretary General of the Council of Europe

A message by Terry Davis, 18 September 2005.

18 September 2005

Welcome to the Council of Europe!

I am delighted to welcome you today to the home of the Council of Europe, a symbol of the commitment of 46 democratic states all sharing the same values: human rights, democracy and the rule of law. These values are fundamental to the Council of Europe and its activities.

The Council of Europe works tirelessly to foster our values and to counter new threats to our democratic life such as racism, violence against children, international terrorism and trafficking in human beings. Two of its priorities – the fight against terrorism and trafficking – are illustrated along the route of today's tour.

On this European Heritage Day, I invite you to explore this building, the Palais de l'Europe, which is the home not only of the Council of Europe, but also of every European citizen.

Interview with Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe

Interview with the Deputy Secretary General at the Council of Europe Open Day on the subject of combating human trafficking (extracts)

Question: The Council of Europe has decided to make human trafficking one of its priorities for the coming years. Can you tell us about this?

Maud de Boer-Buquicchio: First of all I would like to quote some figures concerning the extent of human trafficking. According to the ILO (International Labour Organisation), at least 2.45 million people are believed to be exploited at any given time as a consequence of human trafficking (May 2005 figures).

Most of them are exploited for sexual purposes (43%), but many are also subjected to financial exploitation (32%). The remainder are exploited for sexual and financial purposes or for other unidentified reasons (25%), including the trafficking of organs. People trafficking is the 3rd most lucrative criminal activity in the world after drug and arms trafficking and the illegal profits are estimated at US$ 32 billion per year. Many of these figures concern member states of our Organisation.

Since the end of the nineteen eighties, the Council of Europe has taken various initiatives in the field of people trafficking: studies and research, awareness-raising activities and co-operation at national and regional levels.

The Council of Europe Convention on action against trafficking in human beings, adopted by the Committee of Ministers 3 May 2005

The Council of Europe has also adopted texts on human trafficking, in particular Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation.

However, existing international texts were insufficiently binding or only tackled one aspect of the problem. That is why the Council of Europe drafted a new convention, which has just been opened for signature.

Question: What difference will this Convention make, in your opinion?

Maud de Boer-Buquicchio: First of all, it should be pointed out that the geographical area covered by the Council of Europe is a major asset since it enables countries of origin, transit and destination to work together on a binding common policy.

The Convention is a comprehensive treaty with three objectives: preventing human trafficking, protecting the rights of the victims of trafficking and ensuring that traffickers are prosecuted. It applies to all forms of trafficking, irrespective of whether it is national or transnational, whether or not it is linked to organised crime, whether it concerns men, women or children and finally whatever form of exploitation is concerned (sexual exploitation, force labour or services, etc.).

Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe, 18 September 2005.

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

European Court of Human Rights

Owing to the large number of judgments delivered by the Court, only those delivered by the Grand Chamber, together with a selection of chamber judgments, are presented. Exhaustive information can be found in the Court's press releases and monthly case law *Information notes*, published on its Web site, and, for more specific searches, in the HUDOC database of the case law of the Convention.

The summaries of cases presented here are produced for the purposes of the *Bulletin*, and do not engage the responsibility of the Court.

Case-load statistics, 1 July-31 October 2005

- 356 (372) judgments delivered
- 292 (302) applications declared admissible, of which 92 (96) in a separate decision and 200 (206) in a judgment on the merits
- 9 010 (9 061) applications declared inadmissible
- 244 (245) applications struck off the list.

Figures are provisional. 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.

Court's Web site: http://www.echr.coe.int/echr/
HUDOC database: http://hudoc.echr.coe.int/

Grand Chamber judgments

Nachova and others v. Bulgaria

Judgment of 6 July 2005
Concerns:
Shooting of two young men of Roma origin by military police, and effectiveness of the investigation

Principal facts and complaints

The case concerns the shooting of two young Bulgarians of Roma origin, escaped from the army, and having taken refuge in their family, who tried to flee at the arrival of the military police.

In a Chamber judgment of 26 February 2004 the Court held that there had been violations of the right to life and a failure to conduct an effective investigation into the deaths of the applicants' relatives as well as whether they had been racially motivated. Upon request by the Bulgarian Government, the case was referred to the Grand Chamber and gave rise to the present judgment.

Decision of the Court

The deaths of Mr Angelov and Mr Petkov

The Court finds in conclusion that Bulgaria had failed to comply with its obligations under Article 2 in that the relevant legal framework on the use of force was fundamentally flawed and Mr Angelov and Mr Petkov had been killed in circumstances in which any use of firearms to carry out their arrest was incompatible with the said provision. Furthermore, grossly excessive force had been used.

Whether the investigation was effective

The Grand Chamber endorsed the Chamber's view that such conduct on the part of the authorities cast serious doubt on the objectivity and impartiality of the investigators and prosecutors

involved, and that there had been a violation by Bulgaria of its obligation under Article 2 to investigate the deprivation of life effectively.

Whether the killings had been racially motivated

The Court did not find it established that racist attitudes had played a role in Mr Angelov's and Mr Petkov's deaths.

Whether there had been an adequate investigation into possible racist motives

The Court finds that the authorities had failed in their duty to take all possible steps to investigate whether or not discrimination may have played a role in the events.

The Grand Chamber upheld the awards to the applicants in the amounts of 25 000 and 22 000 euros, respectively, on all heads of damage. It also made an award for costs.

Broniowski v. Poland

Friendly settlement judgment of 28 September 2005
Concerns:
Claims for compensation for property forcibly abandoned between 1944 and 1953 in the eastern provinces of pre-war Poland (the so-called "Bug River claims")

The terms of the friendly settlement

The applicant is to be paid 213 000 Polish zlotys (PLN) (equivalent to approximately 54 300 EUR) for pecuniary and non-pecuniary damage and PLN 24 000 (approximately EUR 6 100) for costs and expenses.

The judgment concerns not only the individual applicant's claims, however, but also those of nearly 80 000 other people in the same situation. It is the first time that one of the Court's judgments has set out general as well as individual remedial measures.

The Polish Government – which, in July 2005, passed a new law setting the ceiling for compensation for Bug River property at 20% of its original value – has undertaken the following:

– to implement as rapidly as possible all the necessary measures in terms of domestic law and practice to secure the implementation of the property right in question in respect of the remaining Bug River claimants or provide them with equivalent redress in lieu;

– to intensify their endeavours to make the new Bug River legislation effective and to improve the practical operation of the mechanism designed to provide the Bug River claimants with compensation;

– to ensure that the relevant State agencies do not hinder the Bug River claimants in enforcing their "right to credit";

– to make available to the remaining claimants some form of redress for any material or non-material damage caused to them by the defective operation of the Bug River legislative scheme.

The "pilot-judgment procedure"

In its principal judgment, the Court held that:

– the violation of the applicant's Convention right originated in a widespread, systemic problem;

– that general measures at national level were called for in execution of the judgment and that those measures had to take into account the many people affected and remedy the systemic defect underlying the Court's finding of a violation;

– that they should include a scheme offering to those affected redress for the Convention violation;

– that once such a defect has been identified, it fell to the national authorities, under the supervision of the Council of Europe's executive body, the Committee of Ministers, to take – retroactively if appropriate – the necessary remedial measures in accordance with the subsidiary character of the Convention.

This kind of adjudicative approach by the Court to systemic or structural problems in the national legal order has been described as a "pilot-judgment procedure".

In this case, its object was to facilitate the most speedy and effective resolution of a dysfunction affecting the protection of the right of property in the national Polish legal order. One of the relevant factors considered by the Court was the

growing threat to the Convention system and to the Court's ability to handle its ever-increasing caseload that resulted from large numbers of repetitive cases deriving from, among other things, the same structural or systemic problem.

In the pilot judgment in this case, the Court, after finding a violation, had also adjourned its consideration of applications deriving from the same general cause "pending the implementation of the relevant general measures".

In the context of a friendly settlement reached after the delivery of a pilot judgment on the merits of the case, the notion of "respect of human rights as defined in the Convention and the Protocols thereto" necessarily extended beyond the sole interests of the individual applicant and required the Court to examine the case also from the point view of "relevant general measures".

In view of the systemic or structural character of the shortcoming at the root of the finding of a violation in a pilot judgment, it was evidently desirable for the effective functioning of the Convention system that individual and general redress should go hand in hand. The respondent State had, within its power, to take the necessary general and individual measures at the same time and to proceed to a friendly settlement with the applicant on the basis of an agreement incorporating both categories of measures, thereby strengthening the subsidiary character of the Convention system of human rights protection and facilitating the performance of the respective tasks of the Court and the Committee of Ministers, under Articles 41 and 46 of the Convention. Conversely, any failure by a State to act in such a manner necessarily placed the Convention system under greater strain and undermined its subsidiary character.

In view of the systemic or structural character of the shortcoming at the root of the finding of a violation in a pilot judgment, it was evidently desirable for the effective functioning of the Convention system that individual and general redress should go hand in hand.

The Court noted that the friendly settlement reached between Mr Broniowski and the Polish Government addressed the general as well as the individual aspects of the finding of a violation of the right of property under Article 1 of Protocol No. 1 made by the Court in the principal judgment. The parties had recognised the implications, for the purposes of their friendly settlement, of the principal judgment as a pilot judgment.

Draon v. France and Maurice v. France

Judgment of 6 October 2005

Concerns:
Annulment by a law with retroactive effect of a substantial part of compensation claims which the applicants could legitimately have expected to benefit from

Principal facts and complaints

The applicants are the parents of children with severe congenital disabilities which, due to medical errors, were not discovered during prenatal examinations. They brought proceedings against the hospital authorities concerned. However, the Law of 4 March 2002 on patients' rights and the quality of the health service – which applied to pending proceedings – came into force while their actions were pending. They were therefore awarded compensation only for non-pecuniary damage and disruption to their lives, and not for the special burdens arising from their child's disability.

In these two cases, the applicants alleged that the Law of 4 March 2002 had infringed their right to the peaceful enjoyment of their possessions and to a fair trial.

They also complained that the law had created an unjustified inequality of treatment between the parents of children whose disabilities were not detected before birth on account of medical negligence or the direct act or omission of a third party, and the parents of children whose disability was not detected before birth on account of some other form of negligence.

Lastly, they maintained that the new legal rules introduced constituted, among other things, arbitrary interference by the State in their private and family life: by depriving them of part of the compensation to which they would have been entitled before the Law entered into force, it prevented them from providing for their children's needs.

Decision of the Court

Right to peaceful enjoyment of possessions

Whether there was a right to peaceful enjoyment of a possession within the meaning of Article 1 of Protocol No. 1

The Court considered that a direct causal link between the negligence by the hospital and the prejudice sustained by the applicants was established. Before entry into force of the Law of March 2002 the applicants had had a claim which they could legitimately have expected to be realised.

Whether there was interference with the right to peaceful enjoyment of this possession

The Court noted that the 2002 Law had deprived the applicants of the possibility of obtaining compensation for "special burdens" arising from their child's disability all along their life, whereas, before the adoption of the said law, they had brought proceedings in the administrative courts and been granted substantial interim awards. The law complained of had therefore entailed interference with the exercise of the rights to compensation which could have been asserted under the domestic law applicable until then, and consequently of the applicants' right to peaceful enjoyment of their possessions.

Whether the interference was justified

If the Court accepted that the 2002 Law was "in the public interest", the French Parliament thereby putting an end to a line of case-law of which it disapproved ("Perruche judgment"), the said law introduced new rules governing medical liability, thus depriving the applicants of an existing "asset" which they had previously possessed. Such a radical interference with the applicants' rights had upset the fair balance to be maintained between the demands of the general interest on the one hand and protection of the right to peaceful enjoyment of possessions on the other.

"[The rules adopted by France] were the result of comprehensive debate in Parliament, in the course of which account was taken of legal, ethical and social considerations, and concerns relating to the proper organisation of the health service and the need for fair treatment for all disabled persons. [...] Parliament based its decision on general-interest grounds, and the validity of those grounds cannot be called into question by the Court" [§112 of the judgment]

The right to an effective remedy

After reiterating that the Convention did not go so far as to guarantee a remedy allowing a Contracting State's laws as such to be challenged before a national authority, the Court held that there had not been a violation of Article 13.

Right to respect for private and family life

The Court did not consider it necessary to determine the issue whether Article 8 was applicable in the present case since, even supposing that it was, it considered that there had not been a breach of that provision.

Hirst v. United Kingdom (No. 2)

Principal facts and complaints

The case concerns the exclusion of convicted prisoners from voting in parliamentary or local elections.

In a judgment of 30 March 2004, the Court held that there had been a violation of the right to free elections. At the Government's request, the case was referred to the Grand Chamber and the present judgment was given.

Judgment of 6 October 2005
Concerns:
Exclusion of convicted prisoners from voting

Decision of the Court

General principles

The Court stressed that the rights guaranteed under Article 3 of Protocol No. 1 were crucial to establishing and maintaining the foundations of an effective and meaningful democracy governed by the rule of law and also that the right to vote was a right and not a privilege.

Nonetheless, the rights bestowed by Article 3 of Protocol No. 1 were not absolute. There was room for implied limitations and States which had ratified the Convention had to be given a margin of appreciation in that sphere. There were numerous ways of organising and running electoral systems and a wealth of differences, which it was for each Contracting State to mould into its own democratic vision.

However, any limitations on the right to vote had to be imposed in pursuit of a legitimate aim and be proportionate, and not run counter to the concern to maintain the integrity and effectiveness of an electoral procedure aimed at identifying

the will of the people through universal suffrage.

Concerning prisoners, as in other contexts, an independent court, applying an adversarial procedure, provides a strong safeguard against arbitrariness.

The present case

Regarding the question of the legitimate aim of the restriction to prisoners' voting right, the Court recalled that Article 3 of Protocol No.1 did not specify or limit the aims which a measure must pursue. The United Kingdom Government had submitted that the measure aimed to prevent crime, by sanctioning the conduct of convicted prisoners, and to enhance civic responsibility and respect for the rule of law. The Court accepted that section 3 might be regarded as pursuing those aims.

Ass to the proportionality of the measure, the Government submitted that the ban was in fact restricted in its application as it affected only around 48 000 prisoners, those convicted of crimes serious enough to warrant a custodial sentence and not including those detained on remand, for contempt of court or default in payment of fines.

However, the Court considered that this figure is significant and that it could not be claimed that the bar was negligible in its effects. It also included a wide range of offenders and sentences. At least, in sentencing, the criminal courts in England and Wales made no reference to disenfranchisement and it was not apparent that there was any direct link between the facts of any individual case and the removal of the right to vote.

As to the weight to be attached to the position adopted by the legislature and judiciary in the United Kingdom, there was no evidence that Parliament had ever sought to weigh the competing interests or to assess the proportionality of a blanket ban on the right of a convicted prisoner to vote. It was also evident that the nature of the restrictions, if any, to be imposed on the right of a convicted prisoner to vote was in general seen as a matter for Parliament and not for the national courts. The domestic courts did not therefore undertake any assessment of the proportionality of the measure itself.

"There are numerous ways of organising and running electoral systems and a wealth of differences, inter alia, in historical development, cultural diversity and political thought within Europe which it is for each Contracting State to mould into their own democratic vision." [§ 61 of the judgment]

A consensus among Contracting States upon the exclusion of convicted persons from voting?

The Court noted that, although there was some disagreement about the state of the law in certain States, it was undisputed that the United Kingdom was not alone among Convention countries in depriving all convicted prisoners of the right to vote. It might also be said that the law in the United Kingdom was less far-reaching than in certain other States. However the fact remained that it was a minority of Contracting States in which a blanket restriction on the right of convicted prisoners to vote was imposed or in which there was no provision allowing prisoners to vote. Moreover, and even if no common European approach to the problem could be discerned, that could not of itself be determinative of the issue.

Conclusion

The Court reiterated that the margin of appreciation was wide, but not all-embracing. Further, although the situation was somewhat improved by the Act of 2000 which for the first time granted the vote to persons detained on remand, section 3 of the 1983 Act remained a blunt instrument. It stripped of their Convention right to vote a significant category of people and it did so in a way which was indiscriminate. Such a general, automatic and indiscriminate restriction on a vitally important Convention right had to be seen as falling outside any acceptable margin of appreciation, however wide that margin might be, and as being incompatible with Article 3 of Protocol No. 1. Considering that the Contracting States had adopted a number of different ways of addressing the question of the right of convicted prisoners to vote, the Court left the United Kingdom legislature to decide on the choice of means for securing the rights guaranteed by Article 3 of Protocol No. 1.

Roche v. the United Kingdom

Judgment of 19 October 2005

Concerns:
Failure to provide a procedure enabling an ex-member of the Armed Forces to access information allowing him to assess the risk to his health due to his participation in army gas tests

Principal facts and complaints

Ex-member of the British Army, the applicant is registered as an invalid since the age of 50. He maintains that his health problems are the result of his participation in mustard and nerve gas tests conducted under the auspices of the British Armed Forces at the Chemical and Biological Defence Establishment (CBDE) at Porton Down Barracks in 1962 and 1963. On 28 January 1992 the Secretary of State rejected his pension claim as he had not demonstrated a causal link between the tests and his medical condition. In 1994 he threatened to bring judicial review proceedings alleging, among other things, negligence on the part of the Ministry of Defence. In 1995 the Secretary of State issued a certificate under section 10 of the Crown Proceedings Act 1947, which effectively blocks any such proceedings concerning events prior to 1987, while allowing the person concerned to apply for a service pension.

In November 1998 – following the European Court of Human Right's judgment of 9 June 1998 in the case of McGinley and Egan v. the United Kingdom – the applicant appealed to the Pensions Appeal Tribunal (PAT). He applied for the disclosure of official information under Rule 6 (1) of the PAT Rules to enable the PAT to decide whether his illness was caused or aggravated by the Porton Down gas tests. In February 2001 the PAT ordered the Ministry of Defence to disclose certain categories of records and certain documents were disclosed in 2001 and 2002.

On 14 January 2004 the PAT concluded, relying on an expert report, that there was "no evidence to link [the applicant's] exposure to either gas with his present condition". However, the PAT also considered the "difficulties" experienced by the applicant in obtaining the records which were produced to the PAT to be "disquieting".

Mr Roche then applied for leave to appeal to the High Court. The appeal was allowed and the matter referred back to the PAT for a further hearing, before which the case is still pending.

On 18 April 2005 the Government disclosed a further eleven documents, eight of which had not been seen before by the applicant.

Since 1998 a scheme has existed allowing Porton Down test participants to be given a summary of their test records and to see the actual documents at Porton Down. In addition, the Porton Down Volunteers Medical Assessment Programme was established in 2001 to investigate the health concerns of participants. The study involved one hundred and eleven people, but no control group. Its report, published in 2004, concluded that no evidence was found to support the hypothesis that participation in Porton Down trials produced any long-term adverse health effects or unusual patterns of disease compared to those of the general population of the same age". A further pilot study on mortality and cancer incidence among Porton Down test participants is still under way.

The applicant complained that he was denied adequate access to information concerning the tests he underwent at Porton Down, in violation of Articles 8 and 10 of the Convention (right to respect for private and family life, and freedom of expression). He also complained that the certificate issued by the Secretary of State under section 10 of the 1947 Act constituted a violation of his right of access to court, and to protection of property. He further relied on Article 13 (right to an effective remedy).

Decision of the Court

Access to court

The Court accepted the reasoning of the United Kingdom Court of Appeal and the House of Lords as to the effect of section 10 of the 1947 Act in domestic law, namely that section 10 did not remove a class of claim from the domestic courts' jurisdiction or confer any immunity from liability which had been previously recognised: such a class of claim had never existed and was not created by the 1947 Act. Section 10 was found therefore to be a provision of substantive law which delimited the rights of servicemen to seek damages from the Crown and which provided instead, as a matter of

substantive law, a no-fault pension scheme for injuries sustained in the course of service.

The Court found that section 10 had to be interpreted in its context, bearing in mind the purpose of the legislation: to facilitate the grant of a pension to injured service personnel by obviating the need to prove that the injury was attributable to service. It was also intended that the section 10 certificate would issue where the relevant conditions had been fulfilled, which had been the practice for forty years, to the extent that any lawyer would have advised that a section 10 certificate was bound to issue.

Section 10 did not involve encroachment by the executive into the judicial realm but rather concerned a decision by Parliament in 1947 that, in a case where injuries were sustained by service personnel which were attributable to service, no right of action would be created but rather, a no-fault pension scheme be put in place, the certificate of the Secretary of State serving only to confirm that the injuries were attributable to service and thereby to facilitate access to that scheme.

Accordingly, the Court found that the applicant had no (civil) "right" recognised under domestic law which would attract the application of Article 6 § 1.

Protection of a "possession"

The Court considered that there was no basis in domestic law for any such claim. As the applicant had no "possession" within the meaning of Article 1 of Protocol No. 1, it did not apply.

Right to an effective remedy

The Court reiterated that Article 13 did not go so far as to guarantee a remedy allowing the primary legislation of a State which had ratified the European Convention on Human Rights to be challenged before a national authority on the grounds that it was contrary to the Convention. Accordingly, there had been no violation of Article 13.

Right to respect for private and family life

The Court found that the applicant's uncertainty, as to whether or not he had been put at risk through his participation in the tests carried out in Porton Down, could reasonably be accepted to have caused him substantial anxiety and stress. And, the evidence was that it did. From the onset of his medical problems in 1987, he single-mindedly pursued through various means any information relevant to his test participation.

The Court considered that a positive obligation arose to provide an "effective and accessible procedure" enabling the applicant to have access to "all relevant and appropriate information" which would allow him to assess any risk to which he had been exposed during his participation in the tests. However, the various "medical" and "political" means available in the applicant's case had resulted only in partial disclosure. In addition, information services and health studies had only been started almost ten years after the applicant had begun his search for records and after he had lodged his application with the Court.

As to the 1998 Scheme, the Court recalled the difficulties experienced by the authorities – even in a judicial context before the PAT – in providing records under the Rule 6 order of the President of the PAT. It considered that the United Kingdom had not fulfilled its positive obligation to provide an effective and accessible procedure enabling the applicant to have access to all relevant and appropriate information which would allow him to assess any risk to which he had been exposed during his participation in the tests. There had therefore been a violation of Article 8.

Freedom to receive information

The Court recalled that the freedom to receive information prohibited a Government from restricting a person from receiving information that others wished or might be willing to impart and that that freedom could not be construed as imposing on a State, in circumstances such as those of the applicant's case, positive obligations to disseminate information. There had therefore been no interference with the applicant's right to receive information as protected by Article 10.

The Court awarded the applicant 8 000 EUR for non-pecuniary damage and a certain sum for costs and expenses.

Selected Chamber judgments

Ahmed Okyay and others v. Turkey

Judgment of 12 July 2005
Concerns:
Refusal of authorities to enforce court judgments' ordering the halt of thermal-power plants

Principal facts and complaints

The ten applicants live in Izmir, a city located approximately 250 kilometres from three thermal-plants. On three separate occasions in 1993 and 1994, the applicants called on the competent administrative authorities to take action to close the power stations, as they claimed that they had failed to obtain the necessary licences and that they constituted a danger to public health and the environment. They received no reply, which, under Turkish administrative law, amounted to a refusal.

The applicants subsequently instituted proceedings in the administrative court against the authorities. Reports of experts noted the considerable emission of toxic fumes and the absence of the mandatory chimney filters. In June 1996, the court issued an injunction for the suspension of the power plants' operation, finding that they had been operating without requisite permits for construction, gas emissions and discharge of waste water. As their continued operation could give rise to irreparable harm to members of the public, it ruled that the administrative decision refusing to halt the plants' operation had been unlawful. These findings were confirmed in judgments of the administrative court in December 1996, and by the Supreme administrative court in June 1998.

Despite these decisions, the Council of Ministers decided that the thermal-power plants should continue to operate, as their closure would give rise to energy shortages and loss of employment.

Decision of the Court

Applicability of Article 6 (1)

In the Court's opinion, even if the applicants had not suffered any economic or other loss, their right to live in a healthy environment was recognised by Turkish law, which entitled them to protection against environmental damage caused by hazardous activities. It followed that there existed a genuine and serious "dispute" for which the applicants had standing before the courts to seek the suspension of the plants' activities. Accordingly, the proceedings before the administrative courts, taken as a whole, could be considered to relate to the applicants' civil rights, and Article 6(1) applied.

Compliance with the Article

The Court notes that the authorities had failed to comply with the injunction suspending the plants' activities and to enforce the subsequent judgments of the administrative courts within the prescribed time-limits. The decision of the Council of Ministers to continue operating the plants had no legal basis and was unlawful. It was tantamount to circumventing the judicial decisions, a situation which adversely affected the principle of a law-based State.

In conclusion, the failure of the authorities to comply with the judgments of the administrative courts had deprived Article 6 (1) of any useful effect.

The Court awarded each of the applicants 1 000 EUR in respect of non-pecuniary damage.

The Court stated, as it had done in similar cases, that the right of access to a court would be rendered illusory if a State's legal system allowed a final binding judicial decision or an interlocutory order made pending the outcome of a final decision to remain inoperative to the detriment of one party.

Moldovan and others v. Romania

Judgments of 5 and 12 July 2005
Concerns:
Inhuman and discriminating treatment of Roma villagers, and absence of a fair trial

Principal facts and complaints

The case originally involved twenty-five applicants, of whom eighteen agreed to a friendly settlement of their case (judgment of 5 July).

In September 1993 a row broke out between three Roma men and a non-Roma villager that led to the villager's son – who had tried to intervene – being stabbed in the chest by one of the Roma men. The three Roma men fled to a

nearby house. A large, angry crowd gathered outside, including the local police commander and several officers. The house was set on fire. Two of the Roma men managed to escape from the house, but were pursued by the crowd and beaten to death. The third man was prevented from leaving the building and burnt to death. By the following day, thirteen Roma houses had been completely destroyed. The applicants alleged also that they were victims of brutalities, among which a pregnant woman suffered injuries which would result in brain damage to her child.

The Roma residents of the village lodged a criminal complaint against those allegedly responsible, including six police officers. All charges against the police officers were dropped, and in 1997 twelve villagers were sentenced to between one and seven years' imprisonment.

The Romanian Government subsequently allocated funds for the reconstruction of the destroyed or damaged houses, but the applicants alleged that those were uninhabitable, and that they have been forced to live in pigsties or cellars, in extremely cold and over-crowded conditions, as a result of which the applicants and their families fell seriously ill, leading to the death of one family member.

On 5 July 2005 the European Court of Human Rights delivered the first judgment striking the case out of the list insofar as it concerned the friendly settlement between eighteen applicants and the Government, in which a total of EUR 262 000 (individual awards ranging from EUR 11 000 to EUR 28 000) is to be paid for any pecuniary and non-pecuniary damage and for costs and expenses. That judgment severed the application insofar as it concerned the present applicants and adjourned the examination of the complaints introduced by them.

Decision of the Court

Right to respect for private and family life

The Court noted that it could not examine the applicants' complaints about the destruction of their houses and possessions or their expulsion from the village, because those events took place in September 1993, before the ratification of the Convention by Romania in June 1994.

However, it was clear from the evidence submitted by the applicants and the civil court judgments, that police officers were involved in the burning of the Roma houses and tried to cover up the incident. Having been hounded from their village and homes, the applicants were then obliged to live, and some of them still live, in crowded and unsuitable conditions. Having regard to the direct repercussions of the acts of State agents on the applicants' rights, the Court considered that the Government's responsibility was engaged regarding the applicants' subsequent living conditions.

There was no doubt that the question of the applicants' living conditions fell within the scope of their right to respect for family and private life, as well as their homes. Article 8 was thus clearly applicable to those complaints.

Considering whether the national authorities took adequate steps to put a stop to breaches of the applicants' rights, the Court noted that:

– despite the involvement of State agents in the burning of the applicants' houses, the Public Prosecutors' Office failed to institute criminal proceedings against them, preventing the domestic courts from establishing the responsibility of those officials and punishing them;

– the domestic courts refused for many years to award pecuniary damages for the destruction of the applicants' belongings and furniture;

– it was only ten years after the events that compensation was awarded for the destroyed houses, although not for the loss of belongings;

– in the judgment in the criminal case against the accused villagers, discriminatory remarks about the applicants' Roma origin were made;

– the applicants' requests for non-pecuniary damages were also rejected at first instance, the civil courts considering that the events (the burning of their houses and the killing of some of their family members) were not of a nature to create any moral damage;

– when dealing with a request from Maria Floarea Zoltan for a maintenance

allowance for her minor child, whose father was burnt alive during the incident, the regional court awarded an amount equivalent to a quarter of the statutory minimum wage, and decided to halve that amount on the ground that the deceased victims had provoked the crimes;

– three houses were not rebuilt and the houses rebuilt by the authorities were uninhabitable; and

– most of the applicants did not return to their village, and lived scattered throughout Romania and Europe.

In the Court's view, those elements taken together indicated a general attitude on the part of the Romanian authorities which perpetuated the applicants' feelings of insecurity after June 1994 and affected their rights to respect for their private and family life and their homes. The Court concluded that this attitude, and the repeated failure of the authorities to put a stop to breaches of the applicants' rights, amounted to a serious violation of Article 8 of a continuing nature.

Prohibition of inhuman or degrading treatment

The Court considered that the applicants' living conditions over the last ten years, and its detrimental effect on their health and well-being, combined with the length of the period during which they had had to live in such conditions and the general attitude of the authorities, must have caused them considerable mental suffering, thus diminishing their human dignity and arousing in them feelings of humiliation and debasement.

In addition, the remarks concerning the applicants' honesty and way of life made by some authorities dealing with the case appeared to be, in the absence of any substantiation on behalf of those authorities, purely discriminatory. In that connection the Court reiterated that discrimination based on race could of itself amount to degrading treatment within the meaning of Article 3. Such remarks should therefore be taken into account as an aggravating factor in the examination of the applicants' complaint under Article 3.

The Court concluded that the applicants' living conditions and the racial discrimination to which they had been publicly subjected by the way in which their grievances were dealt with by the various authorities, constituted an interference with their human dignity which, in the special circumstances of the case, amounted to "degrading treatment" within the meaning of Article 3.

Access to court

The Court found that it had not been shown that there was a possibility to bring an effective civil action for damages against the police officers in the particular circumstances of the case. The Court was not, therefore, able to determine whether the domestic courts would have been able to adjudicate on the applicants' claims had they, for example, brought a tort action against individual members of the police.

However, the applicants lodged a civil action against the civilians who had been found guilty by the criminal court, claiming compensation for the destruction of their homes. That claim was successful and effective, the applicants having been granted compensation. In those circumstances, the Court considered that the applicants could not claim an additional right to a separate civil action against the police officers allegedly involved in the same incident.

Right to a fair hearing within a reasonable time

Having regard to the criteria established in its case law for the assessment of the reasonableness of the length of proceedings and the particular circumstances of the case, the Court found that the length of the civil proceedings instituted by the applicants – more than eleven years – did not satisfy the reasonable-time requirement.

Prohibition of discrimination

The Court noted first that the attacks were directed against the applicants because of their Roma origin. The Court reiterated that it was not able to examine under the Convention the actual burning of the applicants' houses and the killings in question. It observed, however, that the applicants' Roma ethnicity appeared to have been decisive for the length and the result of the domestic proceedings. Among other things, it took note of the repeated discriminatory remarks made by the authorities

throughout the whole case and their blank refusal until 2004 to award non-pecuniary damages for the destruction of the family homes.

The Court observed that the Romanian Government had provided no justification for the difference in treatment of the applicants. It concluded accordingly that there has been a violation of Article 14 taken in conjunction with Articles 6 and 8.

The Court awarded the applicants, in respect of pecuniary and non-pecuniary damage, sums ranging from EUR 11 000 to EUR 95 000.

Siliadin v. France

Judgment of 26 July 2005
Concerns:
Togolese servant subject to a state of domestic servitude

Principal facts and complaints

The applicant, Siwa-Akofa Siliadin, is a Togolese national who was born in 1978 and lives in Paris.

In January 1994 the applicant, who was then fifteen and a half years old, arrived in France with a French national of Togolese origin, Mrs D. The latter had undertaken to regularise the girl's immigration status and to arrange for her education, while the applicant was to do housework for Mrs D. until she had earned enough to pay her back for her air ticket. The applicant effectively became an unpaid servant to Mr and Mrs D. and her passport was confiscated.

A few months later Mrs D. "lent" the applicant to a couple of friends, Mr and Mrs B., to help them with household chores and to look after their young children. She was supposed to stay for only a few days until Mrs B. gave birth. However, after her child was born, Mrs B. decided to keep the applicant on. She became a "maid of all work" to the couple, who made her work from 7.30 a.m. until 10.30 p.m. every day with no days off, never paid, giving her special permission to go to mass on certain Sundays. The applicant even had no personal bedroom and slept in the children's room.

In July 1998 Ms Siliadin confided in a neighbour, who informed the Committee against Modern Slavery, which reported the matter to the prosecuting authorities. Criminal proceedings were brought against Mr and Mrs B. for wrongfully obtaining unpaid or insufficiently paid services from a vulnerable or dependent person, an offence under Article 225-13 of the Criminal Code, and for subjecting that person to working or living conditions incompatible with human dignity, an offence under Article 225-14 of the Code.

The defendants were convicted at first instance and sentenced to, among other penalties, twelve months' imprisonment – seven of which were suspended –, but were acquitted on appeal at the Versailles Court of Appeal, to which the case had subsequently been referred by the Court of Cassation, found Mr and Mrs B. guilty of making the applicant, a vulnerable and dependent person, work unpaid for them but considered that her working and living conditions were not incompatible with human dignity. It accordingly ordered them to pay the applicant the equivalent of EUR 15 245 in damages. The employment tribunal awarded her EUR 31 238 in salary arrears.

Relying on Article 4 (prohibition of forced labour) of the European Convention on Human Rights, the applicant submitted that French criminal law did not afford her sufficient and effective protection against the "servitude" in which she had been held, or at the very least against the "forced and compulsory" labour she had been required to perform, which in practice had made her a domestic slave.

Decision of the Court

The Court considered that Article 4 of the Convention enshrined one of the fundamental values of the democratic societies which make up the Council of Europe.

As to the violation of Article 4

The Court noted that, in addition to the Convention, numerous international treaties had as their aim the protection of human beings from slavery, servitude and forced or compulsory labour. In accordance with modern standards and trends in that area, the Court considered that States were under an obligation to penalise and punish any act aimed at maintaining a person in a situation incompatible with Article 4.

In order to classify the state in which the applicant was held, the Court noted that Ms Siliadin had worked for years for Mr and Mrs B., without respite, against her will, and without being paid. The applicant, who was a minor at the relevant time, was unlawfully present in a foreign country and was afraid of being arrested by the police. Indeed, Mr and Mrs B. maintained that fear.

In those circumstances, the Court considered that Ms Siliadin had, at the least, been subjected to forced labour within the meaning of Article 4 of the Convention.

The Court had then to determine whether the applicant had also been held in slavery or servitude.

With regard to slavery, although the applicant had been deprived of her personal autonomy, the evidence did not suggest that she had been held in slavery in the proper sense, in other words that Mr and Mrs B. had exercised a genuine right of ownership over her, thus reducing her to the status of an object. Accordingly, the Court held that it could not be considered that Ms Siliadin had been held in slavery in the traditional sense of that concept.

As to servitude, that was to be regarded as an obligation to provide one's services under coercion, and was to be linked to the concept of "slavery". In that regard, the Court noted that Ms Siliadin had not chosen to work for Mr and Mrs B. As a minor, she had no resources and was vulnerable and isolated, without her papers, and had no means of subsistence other than in the home of Mr and Mrs B. In addition, as she had not been sent to school – despite the promises made to her father – the applicant could not hope that her situation would improve.

In those circumstances, the Court considered that Ms Siliadin, a minor at the relevant time, had been held in servitude within the meaning of Article 4.

Accordingly, it fell to the Court *to determine whether French legislation had afforded the applicant sufficient protection* in the light of the positive obligations incumbent on France under Article 4. In that connection, it noted that the Parliamentary Assembly had regretted in its Recommendation 1523 (2001) that "none of the Council of Europe member states expressly [made] domestic slavery an offence in their criminal codes". Slavery and servitude were not as such classified as criminal offences in the French criminal-law legislation.

Mr and Mrs B., who were prosecuted under Articles 225-13 and 225-14 of the Criminal Code, were not convicted under criminal law. In that connection, the Court noted that, as the Principal Public Prosecutor had not appealed on points of law against the Court of Appeal's judgment, an appeal to the Court of Cassation was made only in respect of the civil aspect of the case and Mr and Mrs B.'s acquittal thus became final. In addition, according to a report drawn up in 2001 by the French National Assembly's joint committee on the various forms of modern slavery, those provisions of the Criminal Code were open to very differing interpretation from one court to the next.

In those circumstances, the Court considered that the criminal-law legislation in force at the material time had not afforded the applicant specific and effective protection against the actions of which she had been a victim. It emphasised that the increasingly high standard being required in the area of the protection of human rights and fundamental liberties correspondingly and inevitably required greater firmness in assessing breaches of the fundamental values of democratic societies.

The Court awarded the applicant a certain sum for costs and expenses. As Ms Siliadin had made no claim for compensation in respect of damage sustained, the Court made no award.

The Court considers that Article 4 is one of those Convention provisions with regard to which the fact that a State had refrained from infringing the guaranteed rights does not suffice to conclude that it has complied with its obligations; it gives rise to positive obligations on States, consisting in the adoption and effective implementation of criminal-law provisions making the practices set out in Article 4 a punishable offence.

Salov v. Ukraine

Judgment of 6 September 2005

Concerns:
Supervision of the lawfulness of an arrest; right to a fair trial; conviction for disseminating false information about a candidate for the presidency during the elections.

Principal facts and complaints

The applicant is a lawyer who, at the time of the events in question, was the legal representative of Olexander Moroz, a candidate for the presidency of Ukraine in the 1999 elections.

On 30 and 31 October Mr Salov allegedly distributed a number of copies of a forged special edition of the *Verkhovna Rada* (Parliament) newspaper, *Holos Ukrayiny*, which included a statement attributed to the Speaker of the *Verkhovna Rada*, claiming that presidential candidate and incumbent President Leonid Kuchma was dead.

On 1 November 1999 Mr Salov was arrested and placed in detention for having disseminated false information about Mr Kuchma. On 10 November 1999 he lodged a petition seeking his release from detention with Voroshylovsky District Court of Donetsk, which was dismissed on 17 November 1999. On 7 March 2000 the district court ordered an additional investigation to be undertaken into the circumstances of the case, having found no evidence to convict the applicant of the offences with which he was charged.

However, on 5 April 2000 the Presidium of the Regional Court allowed a protest lodged by the prosecution against the ruling of 7 March 2000 and remitted the case for further judicial consideration. The applicant was released from detention on 16 June 2000. On 6 July 2000 he was given a five-year suspended prison sentence for interfering with the citizens' right to vote for the purpose of influencing election results by means of fraudulent behaviour. As a result, he also lost his licence to practise law for three years and five months.

Before the European Court of Human Rights, the applicant complained that he was not brought promptly before a judge or other judicial authority to have his arrest reviewed. He also alleged that he did not have a fair trial, in particular, because the Presidium of the Regional Court quashed the ruling of 7 March 2000.

He further expressed doubts about the impartiality of the trial judge, claiming that Ukrainian domestic legislation and the system for financing the courts did not prevent outside pressure on judges.

He maintained that he had not known whether or not the information about the death of the candidate Mr Kuchma was genuine and that he had been trying to verify it. The information had not been widely disseminated, as he had had only eight copies of the paper and had only spoken to a limited number of people.

Decision of the Court

Right to liberty and security

The European Court of Human Rights noted that the applicant was apprehended by the police on 1 November 1999 but that his detention was not reviewed by a court until 17 November 1999, 16 days after his arrest. Even if the Court were to accept the Ukrainian Government's argument that the applicant had contributed to the delay by not applying for release until 10 November, his detention for even seven days without any judicial control fell outside the strict constraints of time laid down by the Convention. The Court therefore held, unanimously, that there had been a violation of Article 5 § 3.

Right to a fair trial

The Court found that the applicant's doubts as to the impartiality of the judge of the Kuybyshevsky District Court of Donetsk might be said to have been objectively justified, taking into account the insufficient legislative and financial guarantees against outside pressure on the judge hearing the case and, in particular, the lack of such guarantees in respect of possible pressure from the President of the Regional Court, the binding nature of the instructions given by the Presidium of the Regional Court and the wording of the relevant intermediary judicial decisions in the case.

In addition, the principle of equality of arms dictated that the public prosecutor's protest lodged with the Presidium of the Donetsk Regional Court should have been communicated to the applicant and/or his advocate, who should have had a reasonable opportunity to comment on it before it was con-

sidered by the Presidium. Furthermore, the applicant should have been provided with a copy of the resolution of the Presidium of the Donetsk Regional Court so as to give him the opportunity to prepare his defence in advance of the trial. As that did not happen and neither the applicant nor his lawyers were present when the protest was considered by the Presidium, the applicant found himself at a substantial disadvantage *vis-à-vis* his opponent, the State prosecution service.

The Court further found that the domestic courts gave no reasoned answer as to why the district court had originally found no evidence to convict the applicant of the offences with which he was charged and yet, on 6 July 2000, found him guilty of interfering with voters' rights. The lack of a reasoned decision also hindered the applicant from raising those issues at the appeal stage.

Lastly, the resolution by the Presidium of the Donetsk Regional Court to consider the prosecution's late request to review the resolution of 7 March 2000 and to set it aside a month after it had been adopted could be described as arbitrary, and as capable of undermining the fairness of the proceedings.

The Court therefore considered that the criminal proceedings in their entirety were unfair.

Freedom of expression

The Court was of the view that the impugned article, disseminated in a copy of a forged newspaper, concerned issues of public interest and concern, the elections in general and the question of support for a particular candidate.

Article 10 did not prohibit discussion or dissemination of information received even if it was strongly suspected that the information might not be truthful. To suggest otherwise would deprive people of the right to express their views and opinions about statements made in the mass media and would thus place an unreasonable restriction on freedom of expression, as set out in Article 10.

The Court noted that the applicant emphasised that he had not known whether the information was true or false while he was discussing it with others. He alleged that he was trying to verify it. Moreover, the impact of the information contained in the newspaper was minor as he only had eight copies of the forged newspaper and spoke to a limited number of people about it, a fact that should have been taken into account by the domestic courts. The guarantees of free expression and free discussion of information enshrined in Article 10, bearing in mind the particular context of the presidential elections, should have also been taken into account by the domestic courts in considering the applicant's case.

The Court reiterated that, when assessing the proportionality of an interference, the nature and severity of the penalties imposed were also factors to be taken into account. In the applicant's case, his sentence and the resulting annulment by the Bar Association of his licence to practise law constituted a very severe penalty.

The Court found that the interference complained of was not necessary in a democratic society. Furthermore, the decision to convict the applicant for discussing information disseminated in the forged copy of a newspaper about the death of President Kuchma was manifestly disproportionate to the legitimate aim pursued. Accordingly, the Court held, unanimously, that there had been a violation of Article 10.

The Court awarded the applicant EUR 227 55 euros (EUR) for pecuniary and EUR 10 000 for non-pecuniary damage.

I.A. v. Turkey

Judgment of 13 September 2005

Concerns:
Conviction of a publisher to pay a fine for having published an insulting novel to the muslim religion

Principal facts and complaints

The applicant, a Turkish national living in France, is the proprietor and managing director of the Berfin publishing house.

In November 1993 he published a novel by Abdullah Riza Ergüven called *Yasak Tümceler* ("The Forbidden Phrases") in which the author addressed philosophical and theological issues in a novelistic style. 2 000 copies of the book were printed.

The applicant was prosecuted under Article 175 §§ 33 and 4 of the Criminal

Code for publishing insults against "God, the Religion, the Prophet and the Holy Book". On 28 May 1996 Istanbul Court of First Instance sentenced him to two years' imprisonment, which was later commuted to a fine equivalent at the time to 16 United States dollars. The court based its decision on an expert opinion and on an extract from the book in which the author asserted, among other things: "Some of these words were, moreover, inspired in a surge of exultation, in Aisha's arms … God's messenger broke his fast through sexual intercourse, after dinner and before prayer. Mohammed did not forbid sexual intercourse with a dead person or a living animal."

The applicant appealed on points of law but was unsuccessful.

Decision of the Court

The Court considered that the applicant's conviction had amounted to interference with his right to freedom of expression. The interference had been prescribed by law and had pursued the legitimate aims of preventing disorder and protecting morals and the rights of others.

The issue for the Court to determine was whether the interference had been "necessary in a democratic society"; this involved weighing up the conflicting interests relating to the exercise of two fundamental freedoms, namely the applicant's right to impart his ideas on religious theory to the public, on the one hand, and the right of others to respect for their freedom of thought, conscience and religion, on the other hand.

The Court reiterated in that connection that those who chose to exercise the freedom to manifest their religion, irrespective of whether they did so as members of a religious majority or a minority, could not reasonably expect to be exempt from all criticism. They had to tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith.

However, the present case concerned not only comments that were disturbing or shocking or a "provocative" opinion but an abusive attack on the Prophet of Islam. Notwithstanding the fact that there was a certain tolerance of criticism of religious doctrine within Turkish society, which was deeply attached to the principle of secularity, believers could legitimately feel that certain passages of the book in question constituted an unwarranted and offensive attack on them.

In those circumstances, the Court considered that the measure in question had been intended to provide protection against offensive attacks on matters regarded as sacred by Muslims and had therefore met a "pressing social need". It also took into account the fact that the Turkish courts had not decided to seize the book in question, and consequently held that the insignificant fine imposed had been proportionate to the aims pursued by the measure in question.

The Court therefore held that there had been no violation of Article 10.

Anheuser-Busch Inc. v. Portugal

Judgment of 11 October 2005

Concerns:
Refusal of national jurisdictions to register a commercial brand on the basis of a Treaty which came into force after the registration request had been submitted

Principal facts and complaints

In 1981 the applicant company, which produces beer and sells it under the brand name *Budweiser* in a number of countries around the world, applied to the Portuguese National Institute for Industrial Property (INPI) to register *Budweiser* as a trade mark. The INPI did not grant the application immediately because *Budweiser Bier* had already been registered as a designation of origin on behalf of a Czechoslovak company. In 1989 the applicant company sought a court order setting aside the registration of that designation, which was granted in 1995, and the INPI subsequently registered the *Budweiser* trade mark. The Czech company challenged that decision in the Lisbon Court of First Instance, relying on the "1986 Agreement", a bilateral treaty between Portugal and Czechoslovakia which came into force in 1987, protecting registered designations of origin. The Court of First Instance found against it, but the Court of Appeal overturned that decision and ordered the INPI to refuse to register *Budweiser* as a trade mark. The applicant company

appealed to the Supreme Court, which dismissed the appeal.

Relying on Article 1 of Protocol No. 1, the applicant company complained that the application of the 1986 Agreement, which had come into force after it had applied for registration of the *Budweiser* trade mark, had infringed its right to the peaceful enjoyment of its possessions. It argued that, under existing international legal instruments, the right to protection of a trade mark was secured from the date on which the application to register it was made and that it had been deprived of that right without receiving any compensation, despite the fact that there had been no public-interest grounds to justify affording protection to a registered designation of origin on the basis of the treaty between Portugal and Czechoslovakia.

Decision of the Court

The Court observed at the outset that intellectual property as such undeniably attracted the protection of Article 1 of Protocol No. 1. The point in issue in the present case was to ascertain precisely when the right to protection of the trade mark became a "possession" within the meaning of that provision.

The Court noted that the legal position of the entity applying for registration of a trade mark indisputably involved certain economic interests, and acknowledged that – being internationally known – the *Budweiser* brand name had certain economic value. Moreover, it was already possible under Portuguese law in 1995 to obtain damages for unlawful or fraudulent use by a third party of a trade mark which the owner had sought to register. Furthermore, the filing of an application for registration conferred a right of priority over applications filed subsequently.

However, although all those factors undeniably gave the applicant company a pecuniary interest that could enjoy a certain legal protection, Anheuser-Busch Inc.'s legal position was not sufficiently strong to amount to a "legitimate expectation" that attracted the protection of Article 1 of Protocol No. 1. The applicant company could not be sure of being the holder of the trade mark in question until after it had been definitively registered and then only on condition that no objection was raised by a third party in that respect. Thus the applicant company had a conditional right, which was extinguished retrospectively on account of the failure to satisfy the condition, namely not to infringe the rights of a third party. The Court noted in that connection that Portuguese legislation, which provided that objections to registration of a trade mark could be raised within three months of registration, was clear, precise and reasonable. The applicant company was or should have been aware of the possibility that its request would be rejected by the Portuguese authorities, especially as in 1989, when the court order was sought setting aside the designation of controlled origin filed by the Czech company, the 1986 Agreement had already been in force for two and a half years.

Accordingly, the Court held that Article 1 of Protocol No. 1 was inapplicable.

"Domestic slavery" and the European Convention on Human Rights

Judgment in the case of Siliadin v. France

Commentaire par Frédéric Sudre Agrégé de droit public, Professeur à l'Université de Montpellier I, Directeur de l'Institut de droit européen des droits de l'homme.

This article, which we reproduce in its original French version, was first published in La Semaine juridique, *No. 42, 19 October 2005, Edition générale, under the heading « CEDH, 26 juill. 2005, n° 73316/01, Siliadin c/ France : JCP G 2005, II, 10142, note F. Sudre ». We are grateful to both author and publisher for permission to reprint the article in the* Bulletin.

L'arrêt *Siliadin c/ France* s'impose comme une décision de principe, qui sort l'article 4 de la Convention européenne des Droits de l'Homme (CEDH) de l'état d'hibernation dans lequel il était plongé et en fait une disposition opératoire du droit de la Convention. Pour la première fois, en effet, la Cour européenne des Droits de l'Homme (Cour EDH) constate la violation de cette disposition, qui prohibe l'esclavage, la servitude et le travail forcé ou obligatoire. L'affaire *Siliadin* soulevait la question dite de l'« esclavage domestique » – qui, comme l'a souligné l'Assemblée parlementaire du Conseil de l'Europe, sévit aujourd'hui en Europe, concernant principalement « des femmes qui travaillent le plus souvent chez des particuliers, chez qui elles arrivent comme domestiques immigrées, personnes au pair ou 'épouses achetées par correspondance' (*Recomm. 1663 (2004), 22 juin 2004, § 2, citée § 49 et 111*) – et de sa confrontation aux garanties offertes par la CEDH.

Les faits sont simples [...] [Le lecteur en trouvera un résumé à la page 17 du présent *Bulletin*].

La requérante invoque devant la Cour la violation de l'article 4. Confronté à une question inédite – la compatibilité avec la CEDH de pratiques « domestiques » émanant de particuliers – le droit de la CEDH témoigne ici de sa grande capacité d'adaptation et de son incontestable utilité pour pallier les lacunes du droit interne. Mobilisant les ressources d'une interprétation dynamique, dans une démarche inspirée de celle suivie dans sa décision *Selmouni c/ France* à propos de l'interdiction de la torture (*CEDH, gr. ch., 28 juill. 1999, in F. Sudre, J.-P. Marguénaud, J. Andriantsimbazovina, A. Gouttenoire, M. Levinet, Les grands arrêts de la Cour européenne des Droits de l'Homme : PUF, coll. Thémis, 3e éd., 2005, n° 13, cité GA CEDH*), le juge européen fait entrer l'« esclavage domestique » dans le champ de l'interdiction de l'article 4 et fait peser sur l'Etat partie une obligation de protection des personnes contre de telles pratiques.

1. La prohibition de l'esclavage domestique

Au terme d'une lecture modernisée de l'article 4 de la CEDH, la Cour EDH juge que la pratique de l'« esclavage domestique » relève de celles qui sont interdites par l'article 4.

A. L'interprétation évolutive de l'article 4

L'arrêt *Saliadin* est manifestement marqué par la volonté du juge européen de procéder à une réévaluation d'une disposition qui pouvait sembler obsolète. Rappelant, à juste titre, la nature particulière de la clause normative de l'article 4, qui énonce un droit intangible, insusceptible de restrictions et de dérogations (*§ 112*), la Cour promeut l'interdiction de l'esclavage, de la servitude et du travail forcé au rang de « valeur fondamentale des sociétés démocratiques » (*§ 82, 112, 121*). Partageant, désormais, cette qualification avec le droit à la vie (*CEDH, 27 sept. 1995, McCann, art. 2, § 147 : GACEDH n° 10*) et l'interdiction de la torture et des traitements inhumains et dégradants (*CEDH, 7 juill. 1989, Soering, art. 3, § 88 : GACEDH, n° 15*), l'interdiction de l'esclavage et du travail forcé prend ainsi place parmi les valeurs communes essentielles qui constituent l'ossature de l'ordre public européen des droits de l'homme.

Cette promotion va de pair avec le souci de donner sa pleine effectivité au droit garanti par l'article 4 et conduit le juge européen à effectuer une lecture de cette disposition adaptée aux « conditions de vie actuelles » (*§ 121*). Rappelant, selon

une formulation classique, que la CEDH est un « instrument vivant », la Cour juge, ainsi qu'elle l'avait fait dans l'affaire *Selmouni* (*préc., § 101*), que « le niveau d'exigence croissant en matière de protection des droits de l'homme et des libertés fondamentales implique, parallèlement et inéluctablement, une plus grande fermeté dans l'appréciation des atteintes aux valeurs fondamentales des sociétés démocratiques » (*§ 121*). Cette « approche dynamique et évolutive » dont se réclame systématiquement l'actuelle Cour depuis l'arrêt *Stafford* du 28 mai 2002 rendu en Grande Chambre (*JCP G 2002, I, 157, n° 7, chron. F. Sudre*) permet, en l'espèce, à l'article 4 de « saisir » la pratique contemporaine de l'« esclavage domestique ».

B. La qualification de l'« esclavage domestique »

Mobilisant les sources internationales pertinentes (*Conv. Genève, 25 sept. 1926, relative à l'esclavage ; Conv. suppl. relative à l'abolition de l'esclavage, de la traite des esclaves et des institutions et pratiques analogues de l'esclavage, 30 avr. 1956 ; Conv. OIT n° 29 concernant le travail forcé, 28 juin 1930 ; Conv. internat. droits de l'enfant, 20 nov. 1989*), la Cour examine la situation de la requérante au regard de chacune des pratiques que l'article 4 interdit mais ne définit pas.

La Cour retient, en premier lieu, la qualification de « travail forcé ». Conformément à sa jurisprudence antérieure (*CEDH, 23 nov. 1983, Van der Mussele, A.70* : l'obligation pour un avocat stagiaire d'assister gratuitement un prévenu ne peut être qualifiée de travail forcé et obligatoire), elle définit le « travail forcé ou obligatoire », au sens de l'article 4, par référence expresse à la définition donnée par la Convention de l'OIT n° 29 (*art.2, § 2*), comme « tout travail ou service exigé d'un individu sous la menace d'une peine quelconque et pour lequel ledit individu ne s'est pas offert de son plein gré » (*§ 116*) et constate que les deux éléments constitutifs du « travail forcé » sont, en l'espèce, réunis : la menace d'une sanction tenant à la situation irrégulière de l'intéressée, l'absence de consentement de celle-ci au travail fourni (*§ 118-119*). La situation de « contrainte physique ou morale », caractéristique du travail forcé (*§ 117*), est patente et la Cour, soulignant que M^lle^ Siliadin était mineure, constate que « la requérante a, au minimum, été soumise à un travail forcé » (*§ 120*).

La Cour recherche, en second lieu, si ,« *en outre* », la requérante a été maintenue dans un état de servitude ou d'esclavage (*§ 122*). L'approche évolutive retenue conduit à distinguer l'« esclavage », au sens classique, et la « servitude », forme moderne de l'esclavage. Se reportant à la Convention de Genève de 1926 (*préc.*), qui définit l'esclavage comme « *l'état ou la condition d'un individu sur lequel s'exercent les attributs du droit de propriété ou certains d'entre deux* », la Cour ne peut que constater que M^lle^ Siliadin n'a pas été « tenue en esclavage au sens propre » (*§ 122*). La notion de « servitude » fait l'objet d'une interprétation renouvelée de la part du juge européen. L'ancienne Cour, comme la Commission, avait, par référence étroite à la notion de « servage » de la Convention supplémentaire sur l'esclavage de 1956 (*V. § 51*), défini la «servitude» comme « une forme de négation de la liberté, particulièrement grave » englobant, « en plus de l'obligation de fournir à autrui certains services, (...) l'obligation pour le 'serf' de vivre sur la propriété d'autrui et l'impossibilité de changer sa condition » (*CEDH, 24 juin 1982, Van Droogenbroeck, A.50, § 58*). Infléchissant cette jurisprudence (*§ 123*), l'arrêt *Siliadin* retient, à la suite de la décision d'irrecevabilité *Séguin c/ France* (*CEDH, 7 mars 2000, n° 42400/98* : l'obligation de secret professionnel prévue dans le contrat de travail qui se perpétue après le licenciement ne constitue pas une « servitude »), une acception plus large – et plus opérationnelle – de la « servitude », analysée, au sens de l'article 4, comme une « obligation de prêter ses services sous l'empire de la contrainte » (*§ 124*).

Ainsi comprise, la « servitude » ne se distingue guère du « travail forcé » (*§ 117*), mais la démarche suivie par la Cour (« *au minimum* », « *en outre* ») comme la précision donnée que la « servitude » est « à mettre en lien avec la notion 'd'esclavage' » (*§ 124*), permettent de penser que le juge européen ébauche une construction de l'article 4 d'une économie similaire à celle de l'article 3 de la Convention (*V. notre ouvrage, Droit européen et international des droits de l'homme : PUF, 2005, 7^e^ éd., n° 192*), qui vise à différencier le champ d'application de chacun des concepts – travail forcé, servitude ou

esclavage – en fonction de la gravité des traitements en cause. Se dessine ainsi – sous réserve que le seuil respectif d'applicabilité du « travail forcé » et de la « servitude » soit, à l'avenir, défini plus clairement que dans la présente affaire – une hiérarchie interne à l'article 4 telle que la « servitude » apparaît comme *moins* que l'« esclavage » mais comme *plus* que le « travail forcé ». Refusant une lecture globalisante de l'article 4 § 1, qui aurait conduit à assimiler la « servitude » à la notion datée d'« esclavage », le juge européen libère les potentialités de la notion de « servitude » et en fait un concept utile, permettant d'offrir la garantie de la Convention aux victimes des détestables formes contemporaines d'asservissement et d'exploitation de la personne (prostitution, esclavage domestique, exploitation de la mendicité, prélèvement d'organes). La présente affaire en porte témoignage, où la Cour, insistant sur le fait que la requérante était mineure, vulnérable, isolée, « à la merci des époux B. » (*§ 126*), qualifie la situation d'« état de servitude au sens de l'article 4 de la Convention » (*§ 129*).

2. L'obligation de protection de l'Etat partie

Les traitements contraires à l'article 4 subis par la requérante étant le fait de simples particuliers, l'affaire *Siliadin* soulevait la question de l'applicabilité de l'article 4 aux relations interindividuelles et du fondement de la responsabilité de l'Etat partie. Classiquement, au regard de l'ensemble de sa jurisprudence, la Cour EDH se place sur le terrain des obligations positives pour sanctionner la défaillance du droit interne.

A. L'extension des obligations positives à l'article 4 de la Convention

L'arrêt *Siliadin* confirme, s'il en était besoin, la systématisation du recours à la technique des obligations positives dans la jurisprudence européenne. Il est clair, désormais, que tout droit garanti par la Convention implique que l'Etat a l'obligation, sur le fondement de l'article 1, de prendre les mesures positives que réclame l'application concrète du droit. Après le droit de propriété (*CEDH, gr. ch., 30 nov. 2004, Oneryildiz : GACEDH n° 56*), l'interdiction de l'esclavage et du travail forcé rejoint le cortège des droits – toujours plus nombreux (*F. Sudre, op. cit., n° 166*) – sièges d'obligations positives.

En conséquence, la responsabilité de l'Etat partie peut être engagée non seulement du fait des « agissements directs des autorités » mais aussi du fait de son inertie, notamment lorsque celle-ci a permis à un tiers de s'ingérer dans le droit garanti (*§ 89*). En conférant à l'article 4 un « effet horizontal », le juge européen complète le dispositif prétorien mis en place qui, fondé jusqu'alors principalement sur les articles 2 (*CEDH, 28 oct. 1998, Osman : GACEDH n° 11*), 3 (*CEDH, 23 sept. 1998, A c/ Royaume-Uni : JCP G 1999, I, 105, n° 11, chron. F. Sudre*) et 8 (*CEDH, 26 mars 1985, X et Y c/ Pays-Bas, A. 91*), vise à assurer la protection de l'intégrité physique et morale de la personne contre des atteintes commises par des tiers. Ainsi compris, l'article 4 fait obligation à l'Etat partie de prendre les mesures nécessaires afin de protéger toute personne relevant de sa juridiction contre des pratiques privées contraires à l'article 4. Cette construction, inscrite dans le droit fil de l'évolution du droit de la CEDH, prend aussi appui sur les conventions internationales précitées qui, dans leur domaine respectif, font obligation aux Etats contractants de prendre les mesures nécessaires à leur application (*§ 85-87*). Il reste que ces dispositions internationales sont dépourvues d'effet direct et que seul l'article 4 de la Convention permet, par la voie des obligations positives, à cette obligation de protection d'accéder à la « justiciabilité ».

L'arrêt annoté se montre peu disert sur la nature de l'obligation positive tirée de l'article 4 pesant sur l'Etat. La Cour se contente, dans un raisonnement répétitif (*§ 89 et 112*), de transposer en la matière la solution retenue par son arrêt *M. C. c/ Bulgarie*, du 4 décembre 2003, qui juge, sur le fondement des articles 3 et 8, que les Etats parties ont l'obligation positive « d'établir et d'appliquer de manière effective un système de droit pénal réprimant toutes les formes de viol et d'abus sexuels » (*JCP G 2004, I, 107, n° 1, chron. F. Sudre*). Pareillement, l'obligation positive issue de l'article 4 commande « la criminalisation et la répression effective de tout acte tendant à maintenir une personne dans ce genre de situation », contraire à l'article 4 (*§ 112*). Mais si la

Cour inscrit également cette obligation dans le cadre d'une interprétation évolutive et consensuelle, en se référant « aux normes et tendances contemporaines », elle n'étaye aucunement son affirmation. Quoi qu'il en soit, l'obligation positive mise à jour apparaît à la fois de nature substantielle et procédurale en ce qu'elle impose de promulguer une législation pénale permettant de punir effectivement le travail forcé et le maintien en état de servitude et de l'appliquer au moyen d'une enquête et de poursuites effectives (*en ce sens, M. C. c/ Bulgarie, § 153*).

B. Les défaillances du droit interne

C'est tant les lacunes de la législation pénale française elle-même que son application défaillante qui justifient un constat de violation de l'article 4.

S'agissant de la législation elle-même en vigueur à l'époque des faits, la Cour, tout en soulignant qu'aucun Etat membre du Conseil de l'Europe ne réprime expressément l'« esclavage domestique », identifie une double inadéquation. D'une part, l'insuffisance de l'arsenal répressif : les dispositions du Code pénal relatives aux conditions de travail et d'hébergement contraires à la dignité humaine (*C. pén., art. 225-13 et 225-14*) ne visent pas spécifiquement, comme le relève la Cour (*§ 142*), les droits garantis par l'article 4. En effet, si le travail forcé, au sens de l'article 4, semble susceptible de tomber sous le coup de ces dispositions, en ce qu'elles concernent l'exploitation par le travail et la soumission à des conditions de travail contraires à la dignité humaine, par contre, « l'esclavage et la servitude ne sont pas en tant que tels réprimés par le droit pénal français » (*§ 141*). D'autre part, l'insuffisante qualité du droit pénal : l'imprécision des notions d'« abus de la vulnérabilité ou de la situation de dépendance » de la personne (*C. pén., art. 225-13 et 14*) est génératrice d'interprétations variables et plus ou moins restrictives d'une juridiction à l'autre ; la divergence d'appréciation de la situation de M^lle^ Siliadin par les cours d'appel de Paris et de Versailles est, à cet égard, topique (*§ 147*). Le juge européen reste ici indifférent aux efforts faits par la chambre criminelle pour affiner le cadre de la « situation de vulnérabilité » (en l'espèce, *Cass. crim., 11 déc. 2001, préc. – Cass. crim., 4 mars 2003 : D. 2004, p. 181, obs. T. Aubert-Monpeyssen. – Cass. crim., 23 avril 2003, M^me^ F, épse I. : JCP G 2004, II, 10015, note M.-B. Salgado*).

Les défaillances tenant à l'application de la législation en cause sont manifestes, l'absence de pourvoi du procureur général contre l'arrêt de relaxe de la cour d'appel de Paris ayant interdit que les auteurs des traitements contraires à l'article 4 auxquels a été soumise la requérante soient punis pénalement (*§ 145-146*). Dans ces conditions, le constat que le droit pénal français n'a pas assuré à la requérante « une protection concrète et effective contre les actes dont elle a été victime » ne prête guère à discussion (*§ 148*) et la Cour peut, à juste titre, conclure que la France a violé l'article 4 en manquant aux obligations positives qui lui incombent en vertu de cette disposition (*§ 149*).

Le dispositif législatif sanctionné par la Cour EDH a été aménagé par la loi du 18 mars 2003 sur la sécurité intérieure (*D. 2003, p. 868*). Les modifications apportées paraissent de nature à remédier aux causes d'incompatibilité du droit interne avec l'article 4, relevées par l'arrêt *Siliadin*, ainsi que la Cour le laisse implicitement entendre (§ 148). En supprimant la condition tirée de l'« abus » de la vulnérabilité ou de la situation de dépendance, qu'elle remplace par le fait que « la vulnérabilité ou l'état de dépendance » soient « apparents ou connus », la loi facilite la reconnaissance des infractions prévues par les articles 225-13 et 225-14 du Code pénal. De plus, le nouvel article 225-15-1 du Code pénal établit « une véritable présomption de vulnérabilité ou de dépendance » au profit des mineurs et des personnes qui sont victimes, à leur arrivée sur le territoire français, des faits visés aux articles 225-13 et 225-14 du Code pénal (*JCP G 2004, I, 105, chron. M. Véron*). Enfin, la loi crée une nouvelle incrimination – la traite des êtres humains – (*C. pén., art. 225-4 à 225-4-9 : JCP G 2003, I, 185, obs. C. Lienhard*) – qui semble susceptible de permettre la répression de la « servitude », au sens de l'arrêt *Siliadin*.

Il reste à souhaiter que l'arrêt *Siliadin* incite à une application effective de ces dispositions. Contraire à l'article 4 de la Convention, l'« esclavage domestique » ne doit plus bénéficier de l'impunité *in foro domestico.*

Execution of the Court's judgments

In accordance with Article 46 of the Convention, the Committee of Ministers supervises the execution of the Court's final judgments by ensuring that all the necessary measures are adopted by the respondent states in order to redress the consequences of the violation of the Convention for the victim and to prevent similar violations in the future.

The Convention entrusts the Committee of Ministers with the supervision of the execution of the European Court of Human Rights' (ECHR) judgments (Article 46, paragraph 2). The measures to be adopted by the respondent State in order to comply with this obligation vary from case to case in accordance with the conclusions contained in the judgments.

Applicant's individual situation

With regard to the applicant's individual situation, the measures comprise notably the effective payment of any just satisfaction awarded by the Court (including interests in case of late payment). Where such just satisfaction is not sufficient to redress the violation found, the Committee ensures, in addition, that specific measures are taken in favour of the applicant. These measures may, for example, consist in granting of a residence permit, reopening of criminal proceedings and/or striking out of convictions from the criminal records.

Preventing new violations

The obligation to abide by the judgments of the Court also comprises a duty of preventing new violations of the same kind as that or those found in the judgment. General measures, which may be required, include notably constitutional or legislative amendments, changes of the national courts' case-law (through the direct effect granted to the European Court's judgments by domestic courts in their interpretation of the domestic law and of the Convention), as well as practical measures such as the recruitment of judges or the construction of adequate detention centres for young offenders, etc.

In view of the large number of cases reviewed by the Committee of Ministers, only a thematic selection of those appearing on the agendas of the 933rd and 940th Human Rights (DH)[1] meetings (July and October 2005) is presented here. Further information on the below mentioned cases as well as on all the others is available from the Directorate General of Human Rights, as well as on the internet site of the Department for the Execution of Judgments of the European Court of Human Rights.

As a general rule, following the adoption in 2001 of the new Rules for the application of Article 46, § 2, of the Convention (notably Rule 5), information concerning the state of progress of the adoption of the execution measures required is published some ten days after each DH meeting in the document called "annotated agenda and order of business" available on the Committee of Ministers' Web site.

1. Bimonthly meetings specially devoted to the supervision of the execution of judgments.

Directorate General of Human Rights: http://www.coe.int/human_rights/
Department for the Execution of Judgments of the European Court of Human Rights: http://www.coe.int/T/E/Human_Rights/execution/
Committee of Ministers: http://wcm.coe.int/
HUDOC database: http://hudoc.echr.coe.int/

Cases currently pending

During the 933rd and 940th meetings (July and October 2005), the Committee respectively supervised payment of just satisfaction in some 505 and 472 cases. It also looked at around 29 and 69 cases of individual measures (or groups of cases) to erase the consequences of violations (such as striking out convictions from criminal records, re-opening domestic judicial proceedings, etc.) and at 8 and 88 cases (or groups of cases) involving general measures to prevent similar violations (e.g. constitutional and legislative reforms, changes of domestic case-law and administrative practice). The Committee also started examining 79/160 new Court judgments. The Committee notably considered:

- **The granting of redress for violations of the applicants' rights,** notably through:

1. reopening by **Italy and Turkey** of domestic criminal proceedings which have violated the applicants' right to a fair trial and resulted in heavy convictions (*Hulki Günes v. Turkey and Dorigo v. Italy*);

2. restoring the permanent residence rights of the applicants deported from Latvia notwithstanding their family and social ties in this country (*Slivenko v. Latvia*);

3. allowing the applicant regular access to his 6-year-old child born out of wedlock (*Görgülü v. Germany*);

4. putting an end to the authorities' illegal *de facto* refusal to allow the applicants to exploit their land (*Assymomitis v. Greece*).

- Comprehensive measures adopted or being taken by **Turkey, the United Kingdom** and **Bulgaria**, following various violations of the Convention by security forces or police, notably on account of failings in effective investigations into grave abuses such as torture, homicides, disappearances, etc. There will be a **first** examination of responses to similar violations by **Ukraine** (*Afanasyev* case concerning ill-treatment in police custody) and **Russia** (3 cases concerning military operations in 1999-2001 in Chechnya);

- Solutions to be sought to the persistent problem of **excessive length of domestic proceedings in Italy** highlighted by thousands of findings of violations of the Convention.

- **Measures to ensure the execution of domestic judicial decisions in Russia and Ukraine** in response to numerous Court judgments finding violations of the right to a court;

- The implementation of the *Ilascu and others v. Russia and Moldova* judgment which found the applicants' detention in the "Moldavian Republic of Transdniestria" to be arbitrary and unlawful and ordered the immediate release of the applicants still in detention;

- The implementation of the *Cyprus v. Turkey* judgment, in particular in regard to the issue of missing persons and the rights to education and freedom of religion;

- The **general measures** to be taken by Poland to comply with the *Broniowski* judgment delivered in June 2004 under a new "**pilot**" **judgment** procedure and requiring comprehensive general measures setting up an effective mechanism to implement the Bug River claimants' right to compensation;

- The individual and general measures to be adopted by Turkey following the *Dogan and others* judgment, which notably concerns the denial of access to applicants' property in south-east Turkey since 1994 out of security concerns,

- The legislative reform in the United Kingdom to remedy the unpredictable effects of "binding over" orders arising from the vague notion of "behaviour contra bonos mores", at the basis of the violation of the right to freedom of expression found in the *Hashman and Harrup* judgment.

- **Romania's, the United Kingdom's and Turkey's responses to findings of violations of freedom of expression** of journalists, NGO activists or an opposition politician, due to disproportionate damages imposed in defamation proceedings and/or lack of legal aid (*Cumpana and Mazare v. Romania; Steel and Morris v. the United Kingdom; Pakdemirli v. Turkey*).

Interim resolutions

During the period concerned, the Committee of Ministers encouraged by different means the adoption of many reforms and also adopted 5 interim resolutions. These resolutions may notably provide information on adopted interim measures and planned further reforms, or encourage the authorities of the State concerned to make further progress in the adoption of relevant execution measures, or provide indications on the measures to be taken. Interim Resolutions may also express the Committee of Ministers' concern as to adequacy of measures undertaken or failure to provide relevant information on measures undertaken, urge States to comply with their obligation to respect the Convention and to abide by the judgments of the Court or even conclude that the respondent State has not complied with the Court's judgment.

Interim Resolution ResDH (2005) 56

concerning the right to an effective remedy against monitoring of prisoners' correspondence and other restrictions imposed on prisoners' rights – general measures in the cases of Messina No. 2 (judgment of 28 September 2000, final on 28 December 2000), Ganci (judgment of 30 October 2003, final on 30 January 2004) and Bifulco (judgment of 8 February 2005, final on 8 May 2005) against Italy

On 6 July 2005, the Committee of Ministers adopted an Interim Resolution concerning implementation by Italy of three judgments of the European Court of Human Rights highlighting ineffectiveness of judicial protection against monitoring of prisoners' correspondence and other restrictions imposed on prisoners' rights (cases of Messina (No. 2), Ganci and Bifulco).

While recalling that domestic courts' systematic failure to comply with the statutory time-limits has practically nullified the impact of judicial review of the restrictions imposed on prisoners' rights, the Committee noted with interest the ongoing reflection in Italy with a view to remedying this situation in conformity with the Court's judgments.

In conclusion the Committee called upon Italy to rapidly adopt the necessary, legislative and other measures in order to ensure speedy and effective judicial review of the decisions ordering restrictions on prisoners' rights. The Committee furthermore encouraged all Italian authorities, and in particular the courts, to increasingly grant direct effect to the European Court's judgments so as to prevent new violations of the Convention, thus contributing to fulfilling Italy's obligations under Article 46 of the Convention.

At the same time, the Committee closed by a Final Resolution its supervision of the execution of seven other judgments of the European Court highlighting shortcomings of Italian penitentiary legislation allowing too wide latitude in imposing monitoring of prisoners' correspondence and deciding of its duration (Calogero Diana and 6 other cases). The Committee expressed its satisfaction at the legislative reform of April 2004 which notably introduced clear grounds for imposing monitoring or restrictions of prisoners' correspondence and of time-limits for such measures.

Interim Resolution ResDH (2005) 57

concerning the judgment of the European Court of Human Rights of 4 May 2000 in the case of Rotaru against Romania

On 5 July 2005 the Committee of Ministers adopted an Interim Resolution concerning the implementation by Romania of the judgment delivered in May 2000 by the European Court of Human Rights in the Rotaru case, calling for further amendments of the legislation on secret services in Romania.

In this case, the European Court had found, inter alia, that the Romanian law did not lay down with sufficient precision the limits to be respected by the domestic authorities in the exercise of their power to gather, record and archive information concerning national security, and did not allow the individuals to challenge the holding, by the intelligence services, of information on their private life or to refute the truth of such information.

The Committee of Ministers noted the measures adopted by Romania to prevent new similar violations, in particular through setting up a procedure of judicial control of secret surveillance measures. However, the Committee called upon the Romanian authorities to rapidly adopt the further legislative reforms necessary to respond to the criticism made by the European Court concerning the Romanian system of gathering and storing of information by the secret services.

Interim Resolution ResDH (2005) 58

concerning the judgment of the European Court of Human Rights of 22 June 2004 (Grand Chamber) in the case of Broniowski against Poland

On 5 July 2005, the Committee of Ministers adopted an Interim Resolution calling on Poland to rapidly conclude and implement the legislative reform required by the Broniowski against Poland judgment of 22 June 2004 of the European Court of Human Rights. This judgment found a violation of the applicant's property rights on account of Poland's failure to ensure adequate compensation to persons repatriated from the territories beyond the Bug River in the aftermath of the Second World War.

The Committee of Ministers noted the general measures adopted or being taken by the authorities to remedy the underlying problem at the basis of the violation, and in particular the draft law submitted to Parliament aimed at improving the conditions for compensation of all Bug River claimants. The Committee called for rapid adoption of this reform and for the creation of the conditions necessary for its effective implementation.

The Committee stressed that the need for these measures was of particular concern as numerous persons in the applicant's situation are presently unable to obtain redress either domestically or from the European Court itself, which had adjourned all similar complaints pending the resolution by Poland of the aforementioned underlying problem.

Interim Resolution ResDH (2005) 59

concerning the judgment of the European Court of Human Rights of 25 November 1999 (Grand Chamber) in the case of Hashman and Harrup against the United Kingdom

In its Resolution adopted on 5 July 2005, the Committee of Ministers of the Council of Europe urged the United Kingdom to take the remaining necessary measures to overcome the lack of precision of binding-over orders, which was at the basis of the violation of the right to freedom of expression found by the European Court of Human Rights in the case of Hashman and Harrup (judgment of 25 November 1999).

In this judgment, Court considered that the binding-over order imposed on the applicants, based on the notion of "behaviour contra bonos mores", had been too vague, and that it could not be said that it must have been apparent to the applicants what they were being bound over not to do. The order therefore did not comply with the requirement under Article 10 of the European Convention on Human Rights that it be "prescribed by law".

The Committee noted certain measures taken by the United Kingdom in response to the judgment, in particular the guidelines issued to prosecutors in 2000 and a consultation document published in 2003.

It regretted, however, that all the necessary steps have not yet been taken to

prevent similar breaches of the Convention in future, whether through the enactment of legislation or issuing practice directions to courts. The Committee therefore urged the United Kingdom authorities to take the remaining measures necessary to meet its obligations under the Court's judgment without further delay.

The power of magistrates to "bind over" individuals has existed in one form or another in the UK for more than 600 years. Around 20 000 people are bound over by the UK courts each year.

Final resolutions

Once the Committee has ascertained that the necessary measures have been taken by the respondent state, it closes the case by a Resolution in which it takes note of the overall measures taken to comply with the judgment.

During the period concerned, the Committee adopted in all 52 Final Resolutions, (closing the examination of 193 cases), among which 20 took note of the adoption of new general measures. Some examples follow:

Final Resolution ResDH (2005) 55

concerning the judgments of the European Court of Human Rights relating to monitoring of prisoners' correspondence and the right to an effective remedy (case of Calogero Diana and 6 other cases against Italy), adopted on 5 July 2005, at the 933rd DH meeting.

By the above Final Resolution, the Committee of Ministers concluded its supervision of the execution of these seven judgments of the European Court highlighting shortcomings of Italian penitentiary legislation allowing too wide latitude in imposing monitoring of prisoners' correspondence and deciding of its duration (Calogero Diana and 6 other cases). The Committee expressed its satisfaction at the legislative reform of April 2004 which notably introduced clear grounds for imposing monitoring or restrictions of prisoners' correspondence and of time-limits for such measures.

Resolution ResDH (2005) 60

concerning the judgments of the European Court of Human Rights in the case of Horvat and 9 other cases against Croatia relating to the excessive length of certain civil proceedings and the right to an effective remedy, adopted on 18 July 2005, at the 933rd DH meeting

In its resolution, the Committee of Ministers welcomed the legislative reform establishing, in conformity with the Convention's requirements, an effective remedy at the national level making it possible to complain of the excessive length of judicial proceedings. The Committee furthermore noted the direct effect increasingly granted to the European Court's judgments by the Croatian Constitutional Court and stressing the importance of these developments for effective prevention of new violations of the Convention. The legislative measures adopted by the Croatian authorities in view to enhance the effectiveness of the judicial system have also been taken into consideration (Act amending the Code of Civil Procedure, adopted on 14/07/2003 and aiming at strengthening procedural discipline and simplifying the civil cases' processing).

Resolution ResDH (2004) 62

concerning the judgment of the European Court of Human Rights of 21 January 2003 (final on 21 April 2003) in the case of Veeber No. 2 against Estonia, concerning the sentencing of the applicant for acts committed between 1993 and 1996, under the Penal Code which entered into force on 13 January 1995, thus leading to a retrospective application of criminal law in violation of Article 7, paragraph 1, of the Convention.

In this resolution adopted on 18 July 2005, the Committee noted in particular that following the European Court's judgment, the applicant submitted an application for reopening of the criminal proceedings before the Supreme Court. The Supreme Court granted him leave to appeal and his case was reopened. By judgment of 6 January 2004, the Supreme Court set aside the applicant's convictions insofar as these convictions related to facts having occurred prior to the entry into force of the Penal Code and acquitted the applicant of those charges. The Supreme Court has thus effaced the applicant's conviction as it was held by the European Court to be in violation of the Convention. The reopening of the impugned criminal proceedings and the applicant's ensuing acquittal demonstrates the direct effect granted to the European Court's judgments by the Supreme Court of Estonia. Along the same lines, the Supreme Court has stated in many other cases that the Convention is directly applicable before the Estonian courts and that it takes precedence over legislation. The direct effect of the Convention and of the European Court's judgments in Estonian law will play an essential role in preventing new violations similar to that found in the present case.

Resolution ResDH (2005) 63

concerning the judgment of the European Court of Human Rights in 58 cases of excessive length of certain proceedings concerning civil rights and obligations or the determination of criminal charges before the administrative court in France, adopted on 18 July 2005

In 1995, in final Resolution DH (95) 254 in the Beaumartin case, the Committee of Ministers noted the measures adopted at the time by the respondent state to reduce the length of proceedings before administrative courts and the Conseil d'Etat in particular. New violations having been found since that time, France has adopted further measures in this respect, which the Committee noted in its resolution. Thus, Law No. 2002-1138 of 09/09/02 (*Loi d'orientation et de programmation pour la justice*), that applies to all the administrative courts, aimed at accelerating the functioning of administrative justice, and more precisely at reducing the time taken to deliver a judgment to one year. It planed an increase of the number of courts' staff members, both magistrates (210 posts, i.e.+25% of the present workforce) and members of the registry (270 posts); implementing this law, 59 magistrates of administrative tribunals and of administrative courts of appeal have been hired in 2002, 74 in 2003 and 85 in 2004.This law also authorized the recruitment of "justice assistants" (assistants de justice), appointed to the members of the tribunals, the courts of appeal and the Council of State. Furthermore, this law planed the creation of three new courts in five years. This law as well planed the granting to the administrative courts and to the Council of State of 114 million euros for ordinary expenditure and of 60 million euros in "programme authorisations" (*autorisations de programme*). These sums were to be used notably for ameliorating the computer system and for extending the buildings of the existing courts). Finally, procedural measures have been taken. Decree No. 2003-543 of 24/06/03 concerning the administrative courts of appeal and modifying the regulatory part of the code of administrative justice entails two essential innovations

relating to the proceedings of appeal: on the one hand, it is now compulsory to be represented by a lawyer before the administrative court of appeal, and on the other hand, the withdrawal of the possibility to lodge an appeal concerning certain issues.

Resolution ResDH (2005) 64

concerning civil proceedings (Academy Trading Ltd and others against Greece and 3 other cases)

Resolution ResDH (2005) 66

concerning criminal proceedings (case of Tarighi Wageh Dashti against Greece and 7 other cases)

Resolution ResDH (2005) 65

concerning proceedings before administrative courts (Pafitis and others against Greece and 14 other cases)

Three Final Resolutions concerning 27 cases related to excessive length of civil, criminal and administrative proceedings in Greece, adopted on 18 July 2005, at the 933rd DH meeting.

The Committee took note, inter alia, of the following major general measures adopted by Greece:

As far as civil proceedings are concerned:

Reform of the Greek civil procedure: Legislation introduced in 2001 and in 2005 brought a series of amendments to the Greek CCP, which included the following: imposition of stricter time-limits on parties at the preparatory stage of a civil action; shorter time-limits within which the initial setting of hearings at first instance and civil appeal courts should take place; shorter time-limits for the delivery of first instance decisions; restrictions on hearing adjournments; conclusion of evidentiary procedures at a single hearing; amendment and enhancement of the extra-judicial case settlement system.

Increase of judicial posts and improvement of courts' infrastructure: An increase of the number of criminal and civil judges' posts by 237 occurred in 2003 and a further increase of these judges' posts by 24 took place in 2004. Moreover, since 2000 the Athens Appeal Court, the overload of which was at issue in the present cases, has been housed in a new building with 22 courtrooms and 500 offices (compared to 10 and 150). A project to construct 25 new court premises with modern equipment is under way and scheduled to be concluded ready by 2006.

Concerning proceedings before the administrative courts:

Constitutional amendments: The constitutional reform adopted in April 2001 was intended to eliminate the excessive procedural formalism and to speed up the proceedings before administrative courts, especially the Council of State, in particular through a redistribution of competence between the latter and lower courts. These constitutional amendments allowed the subsequent adoption of legislation (see below) for redistribution of the administrative courts' competence with a view in particular to alleviating the excessive burden of the Council of State, which was at the basis of many violations in these cases.

Legislative amendments rearranging administrative courts' jurisdiction: Legislation introduced in 1999 and especially in 2001 transferred a large number of cases from the Council of State to the administrative appeal courts. For some of these categories, there is no right of appeal before the Council of State. Also there has been an increase of the amount at dispute above which judicial review proceedings before the Council of State may be initiated.

New legislation increasing the posts of judges and of administrative staff: Law 3160/2003 (Article 58, paragraphs 4-5) provided for 29 more judges in all administrative instances, as from 1 July 2003. Law 3258/2004 (Article 3, paragraph 1) has further increased by 7 the number of posts of judges in the Council of State, as from 29 July 2004. In 2002, 680 new posts for courts' administrative staff were created.

Further reforms under way: As regards certain additional problems in this field, which were in particular highlighted in more recent judgments of the Court (see for example Manios against Greece, judgment of 11 March 2004), these are being addressed by the Greek authorities, under the Committee's supervision, in the context of the execution by Greece of the latter judgments. The problem of lack of domestic remedies in respect of the excessive length of domestic proceedings is also being considered in this context.

As far as criminal proceedings are concerned:

Changes in criminal courts' jurisdiction, organisation and case management: In 2005 new legislation provided for the appointment of specific judges in the first instance and appeal courts of Athens, Piraeus and Thessaloniki (courts having the largest caseloads in Greece) for conducting criminal proceedings with a view to their acceleration; Also, according to legislation introduced in 2003, cases arising out of the vast majority of the offences for which the minimum sentences provided for by law were less than 3 months' imprisonment would be henceforth examined by single-member criminal courts of first instance. Additionally, a project to computerise all criminal courts is under way. Priority has been given to the criminal courts of first instance in the major cities of Athens, Piraeus and Thessaloniki, as well as to the prosecution services in Athens. The project also aims at the direct on-line connection of the prosecution services with the criminal courts and the improvement of courts' legal data bases to give judges more rapid and easier access. On the other hand, Laws adopted in 2003 and in 2005 introduced a number of changes to the CCrP, the most important of which are the following:

Changes in preliminary investigation and prosecution procedure: New strict time-limits were introduced for preliminary and main investigations. Also there has been an extension of the prosecutor's competence to discontinue prosecution.

New rules for proceedings before criminal courts: Trial adjournments have been limited; There have been introduced new rules on the presence of the accused in the court room and their representation by a lawyer (as prescribed by Article 6§3c of the Convention).

Other measures reducing court backlogs: The new legislation introduced the prescription and termination of prosecution relating to some minor offences, entailing maximum penalties of one year's imprisonment; there was also an extension of categories of offences, mainly against property, for which the accused is not punished if, before the start of the evidentiary procedure at first instance, he pays the victim the capital and the interest due on account of the damage caused by the offence and this is declared by the victim or his heirs.

Resolution ResDH (2005) 67

concerning the judgments of the European Court of Human Rights in the case of Jóri and 18 other cases against the Slovak Republic relating to the excessive length of civil proceedings and the right to an effective remedy, adopted on 18 July 2005, at the 933rd DH meeting

In its resolution, the Committee welcomed the constitutional reform establishing, in conformity with the Convention's requirements, an effective remedy at the national level making it possible to complain of the excessive length of judicial proceedings, as well as the direct effect increasingly granted to the European Court's judgments by the Slovak Constitutional Court and other courts. It also took note of the general measures adopted by the Slovak author-

ities to strengthen the protection of the right to a trial within a reasonable time (in particular Law No. 501/2001 which reduces the number of cases dealt by the Court of Appeal acting as a first-instance and aims at accelerating of the evidence adducing proceedings, and Law No. 385/2000 governing the civil and disciplinary liability of judges in case of undue delay in proceedings).

Committee of Ministers

The Council of Europe's decision-making body comprises the Foreign Affairs Ministers of all the member states, who are represented – outside the annual ministerial sessions – by their Deputies in Strasbourg, the Permanent Representatives to the Council of Europe.

It is both a governmental body, where national approaches to problems facing European society can be discussed on an equal footing, and a collective forum, where Europe-wide responses to such challenges are formulated. In collaboration with the Parliamentary Assembly, it is the guardian of the Council's fundamental values, and monitors member states' compliance with their undertakings.

Terrorist attacks in London: Declaration of the Committee of Ministers

In reaction to the terrorist attacks which took place in London the Committee of Ministers of the Council of Europe adopted the following declaration;

"The Committee of Ministers condemns with the utmost firmness the series of terrorist attacks which ravaged London in the morning of 7 July 2005, causing many innocent victims. It expresses its total solidarity with the British Government and people and its deep compassion towards the victims and their families.

The Committee of Ministers emphasises once more that terrorism is a serious threat to democratic societies and may not be justified under any circumstances and in any culture. The cowardly attacks which have just been inflicted on London, added to those recently committed in Russia, Spain and Turkey only reinforce the Committee's determination to pursue its action against this scourge, within the framework of international action under the aegis of the United Nations."

"Terrorism is a serious threat to democratic societies and may not be justified under any circumstances and in any culture."

Wise persons

A Group of Wise Persons to secure the long-term effectiveness of the European Court of Human Rights

The Council of Europe Committee of Ministers agreed on the names of the Group of Wise Persons to draw up a comprehensive strategy to secure the long-term effectiveness of the European Convention on Human Rights and its control mechanism.

The Group of Wise Persons;

- Prof. Rona Aybay, Turkey;
- Mrs Fernanda Contri, Italy;
- Mr Marc Fischbach, Luxembourg;
- Prof. Dr Jutta Limbach, Germany;
- Mr Gil Carlos Rodriguez Inglesias, Spain;
- Prof. Emmanuel Roucounas, Greece;
- Mr Jacob Söderman, Finland;
- Dr Hanna Suchocka, Poland;
- Mr Pierre Truche, France;
- Lord Woolf of Barnes, United Kingdom,
- Mr Veniamin Fedorovich Yakovlev, Russia.

The Group of Wise Persons was set up by the Third Council of Europe Summit in Warsaw in May this year. Its implemen-

First meeting of the Group of Wise Persons, October 2005, Strasbourg

tation and the beginning of its work are considered as the main priority given to the Committee of Ministers by the Heads of State and Government.

It will submit an interim report on its work to the 116th Session of the Committee of Ministers (May 2006).

Communication on the activities of the Committee of Ministers

Report by the Portuguese Chair of the Committee of Ministers to the Parliamentary Assembly (June-September 2005)

Diogo Freitas do Amaral, Portuguese Minister for Foreign Affairs and Chairman of the Committee of Ministers

Introduction

This second report of the Portuguese Chairmanship to the Parliamentary Assembly comes after the summer period, which traditionally sees some slowing down of activity. There have, however, been important developments since June and significant progress has been achieved towards the objectives which the Chairmanship set itself with a view to the culminating 115th Committee of Ministers session (Strasbourg, 16 and 17 November 2005).

Human Rights: key extracts

At European level, the Council of Europe has since its creation in 1949 been a central resource in ensuring the protection of human rights, democracy and the rule of law. For this purpose, Portugal, in continuity with the priorities of previous Chairmanships, has placed the promotion of human rights at the forefront, with that of democracy and the rule of law. In this context, Portugal recognises the crucial role played by the European Court of Human Rights in the protection of human rights in Europe and the threats to which it is subject today. It also attaches great importance to the function of Commissioner for Human Rights underlines the importance of this Office's role in contributing to a greater awareness of the issues of human rights and fundamental freedoms in all member states of the Council of Europe.

In September 2005, the Committee of Ministers honoured its commitment to the Parliamentary Assembly by nominating the three candidates provided for in Article 9 of Resolution (99) 50 for the post of Commissioner for Human Rights. […]

The Chair wishes to extend its sincere congratulations to Mr Hammarberg who was elected Commissioner for Human Rights by your Assembly.

[…]

Since the last report by the Chair, the Committee of Ministers has continued supervising the execution of judgments in a large number of cases, including the following:

First of all, being concerned about the humanitarian situation of the applicants, who are still in prison, in the case of Ilascu and others against Moldova and the Russian Federation, the Committee of Ministers has adopted a second interim resolution, ResDH (2005) 84, in which it:

"Encourages the Moldovan authorities to continue their efforts towards putting an end to the arbitrary detention of the applicants still imprisoned and securing their immediate release;

Insists that the Russian authorities take all the necessary steps to put an end to the arbitrary detention of the applicants still imprisoned and secure their immediate release".

When this resolution was adopted, the Russian Federation made the following statement: "after doing everything within its power, the Russian Federation declared on 13 October 2004 that it considered the case closed as far as it was concerned. Neither the draft resolution submitted to the Committee nor any other resolution will change this position, which is final". At the same meeting, the Committee of Ministers also decided to continue considering this case at each of its future meetings until the applicants were released.

Secondly, an interim resolution has also been adopted in the case of Broniowski against Poland, viz ResDH (2005) 58. This case is particularly important in

that it is the first time the European Court has implemented the so-called "pilot-case procedure", which is designed to cut back significantly on the number of applications transmitted to the Court. In this interim resolution, the Committee of Ministers set out the measures taken by Poland to remedy the structural problem of compensating all claimants in cases concerning the abandonment of property in the territories beyond the Bug River after World War II.

On 27 July 2005, the Chairman wrote to the Latvian Minister for Foreign Affairs conveying the Committee's concern at the lack of progress in implementing the Court's judgment in the case of Slivenko against Latvia. He recalled that the judgment requires that the applicants are rapidly granted integral restitution of their rights, which in this case implies the restoration of their permanent residency rights in Latvia.

Lastly, it should be noted that the Committee of Ministers has conducted an initial examination of the European Court's judgment in the case of Öcalan against Turkey.

Other texts of interest

- Resolution ResCMN (2005) 6 on the implementation of the Framework Convention for the Protection of National Minorities by Slovenia (28 September 2005, 939th meeting of the Ministers' Deputies)
- Resolution ResCPT (2005) 4 on the election of members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in respect of Austria, Bulgaria, Lithuania, Luxembourg, Portugal, Slovenia and Switzerland (14 September 2005 at the 937th meeting of the Ministers' Deputies)
- Freedom of association: Thematic Monitoring Report presented by the Secretary General under the new monitoring procedure adopted in July 2004 (CM/Del/Dec (2005) 937/2.3a, CM/Monitor (2005) 1 Volumes I, II and III final revised, CM/Inf (2004) 25)

Internet site : http://wcm.coe.int/

Parliamentary Assembly

"The Parliamentary Assembly is a unique institution, a gathering of parliamentarians, from more than forty countries, of all political persuasions, responsible not to governments, but to our own consensual concept of what is right to do."

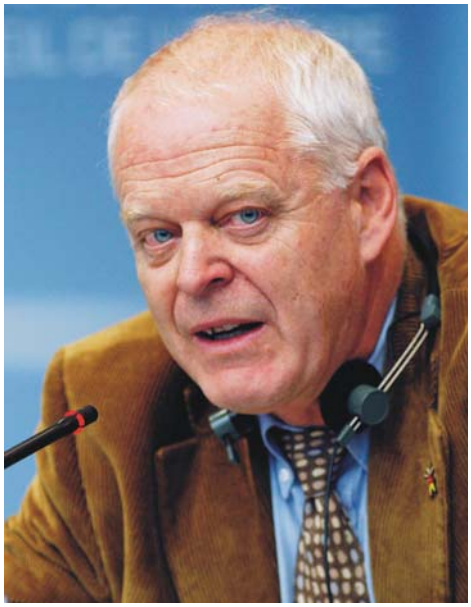
Lord Russell-Johnston, former President of the Assembly

Election of the new Council of Europe Commissioner for Human Rights

Thomas Hammarberg, currently Secretary General of the Olof Palme International Centre in Sweden and a former Secretary General of Amnesty International, was elected as Council of Europe Commissioner for Human Rights by the Organisation's Parliamentary Assembly.

Mr Hammarberg received 104 of the votes cast in the second round of the election, which took place during the Parliamentary Assembly's Autumn plenary session in Strasbourg. Marek Antoni Nowicki (Poland) received 93 votes and Marc Verwilghen (Belgium) received 33 votes.

He has previously served as the Special Representative of the UN Secretary General for Human Rights in Cambodia and as an adviser to the UN High Commissioner for Human Rights. He is also a former Secretary General of Swedish Save the Children.



Thomas Hammarberg, the Council of Europe's new Commissioner for Human Rights.

Term of office

Mr Hammarberg was elected for a non-renewable term of office of six years starting on 1 January 2006.

The Office of the Commissioner for Human Rights was established in 1999 as an independent institution within the Council of Europe. In accordance with his mandate, and without excluding the possibility of complementary actions, the Commissioner focuses his activity on four main areas. These are the promotion of the education in and awareness of human rights, the encouragement for the establishment of national human rights structures where they do not exist and facilitate their activities where they do exist, the identification of shortcomings in the law and practice with regards to human rights and, lastly, the promotion of their effective respect and full enjoyment in all the member States of the Council of Europe.

Situation in member states

Honouring of obligations and commitments by Ukraine

Text adopted on 5 October 2005. Document 10676.

Recommendation 1722 (2005) and Resolution 1466 (2005)

Since the adoption of Resolution 1262 (2001), the Assembly concluded that the country had not yet honoured all obligations and commitments it entered into on becoming a member state of the Council of Europe, and that the rule of law in many areas had not yet been fully established.

In that context, the Assembly considers that specific measures need to be taken in order to accelerate the reforms that will transform Ukraine into a stable and prosperous European democracy.

With respect to the improvement of the conditions for the functioning of pluralist democracy in the country, the Assembly calls on the Ukrainian authorities to adopt the laws on the functioning of the branches of power and ratify the European Convention on Transfrontier Television.

With regard to the respect for the rule of law and protection of human rights, the Assembly calls on the Ukrainian authorities to continue the reform of the judiciary and modify the role and functions of the Prokuratura. Ukraine is also called to improve conditions of detention and medical treatment in the penitentiary establishments in line with CPT standards and recommendations and step up the activities in the field of combating trafficking in human beings, and ratify the Convention on Action against Trafficking in Human Beings (CETS No. 197).

The full and speedy implementation of the decisions of the European Court of Human Rights, in particular in the cases of Sovtransavto and Melnychenko should be ensured as well as the adoption of the law on the execution of decisions of the European Court of Human Rights.

The parliamentarians invite Ukraine to improve the conditions of access to a court in line with Council of Europe standards and the case law of the European Court of Human Rights.

The Parliamentarians recommend that the Committee of Ministers analyse the obstacles encountered by the Ukrainian authorities with regard to the ratification of Council of Europe treaties as, since its accession ten years ago, Ukraine has ratified only 45 and signed 27 out of 200 treaties (as of August 2005);

They recommend that the Committee of Ministers and the Secretary General reinforce Council of Europe presence in Ukraine, in particular by designating a special representative of the Secretary General in Ukraine whose mandate should be to enhance and co-ordinate the ongoing co-operation with the Ukrainian authorities.

The Assembly resolves to pursue its monitoring of the honouring of obligations and commitments by Ukraine and to consider the possibility of moving over to a post-monitoring dialogue with the Ukrainian authorities after the March 2006 parliamentary and local elections.

Functioning of democratic institutions in Moldova

Texts adopted on 4 October 2005. Document 10671.

Recommendation 1721 (2005) and Resolution 1465 (2005)

The Parliamentary Assembly considers that now is the right moment for Moldova to make decisive, comprehensive and irreversible progress with regard to the implementation of democratic standards and practices. Priority should be given to the improvement of the functioning of democratic institutions; the independence and efficiency of the judiciary; ensuring freedom and pluralism of the electronic media; the fight against corruption and trafficking in human beings and organs.

In this context, the Assembly invites the Moldovan authorities, with regard to the functioning of democratic institutions to revise immediately its rules of parliamentary procedure along the lines of the expertise provided by the Parliamentary Assembly and the legislation on political parties in the light of European standards.

It also asks the Moldovan authorities, with regard to the rule of law, to revise the legislation with regard to civil and criminal procedures, judicial organisation, the status of judges and the strengthening of the independence of the judiciary. The institutional reform (the Ministry of Justice, the High Council of Justice, the Bar Association) should be undertaken and the Convention on Action against Trafficking in Human Beings (CETS No. 197) should be ratified.

The Assembly further urges the Moldovan authorities, with regard to the protection of human rights, to strengthen all the necessary guarantees and practical steps for respect of freedom of expression as defined in Article 10 of the European Convention on Human Rights and in line with the case law of the European Court of Human Rights.

It insists that the Moldovan authorities submit all new draft legislation in areas subject to monitoring to the Council of Europe for expertise and that they provide timely, regular and exhaustive information to the Assembly on what action is taken in response to these assessments.

The Assembly further asks the Committee of Ministers to keep monitoring the full implementation of the decision of the European Court of Human Rights regarding the Ilascu case until the political prisoners Andrei Ivantoc and Tudor Petrov Popa, illegally detained in Tiraspol are released.

Democracy and legal development

Text adopted on 4 October 2005. Document 10670.

Women and religion in Europe

Resolution1464 (2005)

In the lives of many European women, religion continues to play an important role. This influence is seldom benign: women's rights are often curtailed or violated in the name of religion. It is the duty of the member states of the Council of Europe to protect women against violations of their rights in the name of religion and to promote and fully implement gender equality.

The Parliamentary Assembly thus calls on the member states to fully protect all women living in their country against all violations of their rights based on or attributed to religion.

The Parliamentarians urge the member states to:

– guarantee the separation between the Church and the State which is necessary to ensure that women are not subjected to religiously inspired policies and laws;

– ensure that freedom of religion and respect for culture and tradition are not accepted as pretexts to justify violations of women's rights, including when underage girls are forced to submit to religious codes (including dress codes).

Where religious education is permitted in schools, the member states should ensure that this teaching is in conformity with gender equality principles and take a stand against any religious doctrine which is antidemocratic or disrespectful of human rights, especially women's rights.

They should also actively promote respect of women's rights, equality and dignity in all areas of life when engaging in dialogue with representatives of different religions.

Text adopted on 4 October 2005. Document 10673.

Education and religion

Recommendation 1720 (2005)

The Council of Europe assigns a key role to education in the construction of a democratic society, but study of religions in schools has not yet received special attention.

Accordingly, the Parliamentary Assembly recommends that the Committee of Ministers examine the possible approaches to teaching about religions at primary and secondary levels.

The Parliamentarians recommend that the Committee of Ministers encourage the governments of member states to ensure that religious studies are taught

at the primary and secondary levels of state education. The aim of this education should be to make pupils discover the religions practised in their own and neighbouring countries and it should include, with complete impartiality, the history of the main religions, as well as the option of having no religion.

It must not overstep the borderline between the realms of culture and worship, even where a country with a state religion is concerned. In addition, the teachers on religions need to have specific training in particular in cultural or literary discipline.

Forced marriages and child marriages

Recommendation 1723 (2005) and Resolution 1468 (2005)

Text adopted on 5 October 2005. Document 10590

The Parliamentary Assembly is deeply concerned about the serious and recurrent violations of human rights and the rights of the child which are constituted by forced marriages and child marriages.

Therefore, the Assembly recommends that the Committee of Ministers instruct the appropriate intergovernmental committee to make a thorough analysis of forced marriages and child marriages and devise a strategy encouraging member states to institute prevention campaigns in primary, secondary and upper secondary schools.

The member states are invited to inform persons under threat of forced marriage of the practical steps to be taken to forestall marriage and to provide emergency reception facilities where people liable to be forcibly married can be heard, cared for and accommodated.

The Parliamentarians call member states to ensure that public service staff (judiciary, police force, diplomatic and consular services etc.) are properly informed and trained to detect forced marriages.

In addition, the Assembly urges the national parliaments of the Council of Europe member states to renegotiate, discard or denounce any sections of international agreements and rules of international private law contrary to the fundamental principles of human rights, adapt their domestic legislation, and if appropriate :

– fix at or raise to 18 years the minimum statutory age of marriage for women and men;

– refrain from recognising forced marriages and child marriages contracted abroad;

– facilitate the annulment of forced marriages and possibly automatically annul such marriages;

– consider the possibility of dealing with acts of forced marriage as an independent criminal offence, including aiding and abetting the contracting of such a marriage.

Enforced disappearances

Resolution 1463 (2005) and Recommendation 1719 (2005)

Text adopted on 3 October 2005. Document 10679.

"Enforced disappearances" entail a deprivation of liberty, refusal to acknowledge the deprivation of liberty or concealment of the fate and the whereabouts of the disappeared person and the placing of the person outside the protection of the law.

Unfortunately, a number of important gaps still exist in the international legal framework, regarding, *inter alia*, the definition of enforced disappearance, the precise extent of states' obligations to prevent, investigate and sanction such crimes, and the status of the victims and their relatives.

The Parliamentary Assembly invites the Committee of Ministers to express its support for the adoption, by the United Nations Commission on Human Rights, of a binding international instrument for the protection of all persons from enforced disappearance.

The Parliamentarians invite the Committee of Ministers to stress, in particular, the need for the future instrument to provide for:

– a clear definition of enforced disappearances wide enough to cover also non-state actors;

– the recognition of close relatives as victims in their own right and to grant them a "right to the truth";

– effective measures against impunity;

– appropriate preventive measures;

– a comprehensive right to reparation including restitution, rehabilitation, satisfaction and compensation;

– a strong international monitoring mechanism, including an urgent intervention procedure.

In addition, the Parliamentarians invite the Committee of Ministers to examine the future UN instrument in due course with a view to ascertaining whether the essential elements have been duly taken into account, and if need be, to envisage appropriate action in the framework of the Council of Europe in order to fill any remaining gaps.

Text adopted on 7 October 2005. Document 10655.

Accelerated asylum procedures in Council of Europe member states

Resolution 1471 (2005) and Recommendation 1727 (2005)

In recent years, member states of the Council of Europe have come under increasing pressure to process asylum claims in a rapid and efficient manner. This has led to the introduction of a variety of accelerated asylum procedures across Europe. The large variety of cases of accelerated procedures and the large number of different procedures applied in member states of the Council of Europe increases.

The Assembly thus considers that there is an urgent need to elaborate guidelines and best practices for such procedures in member states of the Council of Europe. Therefore, it recommends that the Committee of Ministers:

– ask the relevant intergovernmental committee to work out, in co-operation with relevant bodies, policy guidelines and best practices for dealing with accelerated procedures;

– to expand Council of Europe training initiatives for those involved in refugee status determination in general, and those involved in accelerated procedures.

In addition, Parliamentarians invite governments of member states to take the following measures:

as regards the general use of accelerated procedures, to:

– ensure a balance between the need to process asylum applications in a rapid and efficient manner and the need to ensure there is no compromise over international obligations;

as regards border applicants, to:

– ensure, in accordance with the principle of non-discrimination, that all asylum seekers are registered at the border and given the possibility of lodging a claim for refugee status;

– ensure that all asylum seekers, whether at the border or inside the country, benefit from the same principles and guarantees in terms of their request for refugee status;

– ensure that the right to an effective remedy under Article 13 of the European Convention on Human Rights is respected;

as regards exemptions from accelerated procedures:

– to ensure that certain categories of persons be excluded from accelerated procedures due to their vulnerability and the complexity of their cases, namely separated children/unaccompanied minors, victims of torture and sexual violence and trafficking, and also cases raising issues under the exclusion clauses of the 1951 Refugee Convention;

as regards detention:

– to ensure that in general asylum seekers are not detained. Detention should be an exceptional measure to be implemented only for the shortest of periods;

– to ensure that grounds for detention are limited and exhaustively listed with appropriate safeguards, including those under Article 5 of the European Convention on Human Rights;

as regards social conditions:

– to provide adequate social assistance and medical assistance for asylum seekers at all stages of their claim, including during the appeal stage;

as regards the UNHCR's role:

– to facilitate its monitoring and capacity-building activities with respect to the asylum procedure in general, and the accelerated asylum procedures in particular, and to ensure access by UNHCR to key areas, including border areas.

The Assembly also invites the Council of the European Union to take into account

these concerns and the relevant comments and criticisms raised by the European Parliament, the UNHCR and NGOs in relation to the proposal for a Council directive on accelerated asylum procedures.

Co-operation with international organisations

The Council of Europe and the European Neighbourhood Policy of the European Union

Recommendation 1724 (2005)1

The Parliamentary Assembly expresses its appreciation and support for the European Neighbourhood Policy (ENP) launched by the European Union (EU) in order to strengthen democratic stability, security and well-being in several EU neighbouring countries and prevent the emergence of new dividing lines in Europe.

The ENP, which concerns only those states neighbouring the EU which are not involved in the present accession or pre-accession procedures, and covers 15 states (Belarus, Ukraine, Moldova, Georgia, Armenia, Azerbaijan, Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Jordan, Lebanon and Syria) as well as the Palestinian Authority.

The Assembly therefore believes that the ENP has to be based on co-operation between the European Union and the Council of Europe. The ENP should fully integrate the values and standards of the Council of Europe and use its expertise in its core areas of excellence.

The Assembly thus calls on the Committee of Ministers to urge the relevant authorities of the EU to establish concrete co-operation with a view to institutionalising the Council of Europe's contribution to the ENP and give it appropriate political recognition and in particular, to develop more specific relations with non-member states concerned by the ENP.

Furthermore, the Assembly calls on the Council of Europe Commissioner for Human Rights to establish contacts in non-member states covered by the ENP with a view to future co-operation in the field of protection of human rights.

The Assembly resolves to work closely with institutions for which it serves as a parliamentary forum – such as the Organisation for Economic Co-operation and Development (OECD), the European Bank for Reconstruction and Development (EBRD), the World Trade Organization (WTO), the World Bank and the International Monetary Fund (IMF).

Text adopted on 6 October 2005. Documents 10696, 10706 and 10708.

Further information: http://assembly.coe.int/

Commissioner for Human Rights

The 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.

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:

- promoting 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.

Official visits

Iceland (4-6 July 2005)

The Commissioner for Human Rights of the Council of Europe paid an official visit to Iceland from 4 to 6 July.

During this visit, the Commissioner met with the Ministers of Foreign Affairs, Justice, Social Affairs, and Health and Social Security. He also met with members of Parliament and the Supreme Court, the Director of Public Prosecutions, the National Police Commissioner, non-governmental organisations and other civil society representatives.

Moreover, the Commissioner visited a number of sites in the country including a security prison, a reception centre for asylum-seekers, a police station and a centre for victims of violence.

France (5-20 September 2005)

In September the Commissioner paid an official visit to France and travelled to Marseille, Aix-en-Provence, Avignon, Paris as well as the regions of Hautes-Pyrénées, Normandy and Alsace.

During this visit, he met with the Minister of Foreign Affairs, the Minister of Interior, the Minister of Justice, the Deputy Minister for Equal Opportunities and the Deputy Minister for Social Cohesion and Parity, the Ombudsman for Children, the President and members of the National Advisory Commission for Human Rights.

The Commissioner also discussed with the vice-President of the Council of State, President of the Criminal Chamber of the Court of Cassation and the First Advocate General at the Court of Cassation. He also visited several regional courts.

The Commissioner met representatives of NGOs and trade unions and visited several sites throughout the country including detention centres for foreigners, police stations, remand centres and prisons, a psychiatric hospital and centres for victims of domestic violence. The French Ombudsman accompanied him during his visits in Marseille.

The resulting reports on the respect for human rights in these two countries will be presented to the Committee of Ministers over the coming months and will be made available on the Commissioner's Web site.

All the Commissioner's reports are available on his Web site.

Election of the new Commissioner for Human Rights

On 5 October 2005 Thomas Hammarberg was elected as Council of Europe Commissioner for Human Rights by the Organisation's Parliamentary Assembly for a non-renewable term of office of six years.

Former Secretary General of Amnesty International and of Swedish Save the Children, Mr Hammarberg is currently Secretary General of the Olof Palme International Centre in Sweden. He has also served as the Special Representative of the UN Secretary General for Human Rights in Cambodia and as an adviser to the UN High Commissioner for Human Rights.

See also the report on the Parliamentary Assembly's activities, p. 39 of this *Bulletin*.

Internet site of the Commissioner for Human Rights: http://www.coe.int/commissioner/

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: the Revised European Social Charter, which came into force in 1999, is gradually replacing the initial 1961 treaty.

Signatures and ratifications

On 27 July 2005, Malta signed and ratified the Revised Social Charter. On 22 August 2005, Georgia ratified it. On 25 October 2005, Poland signed it.

All the 46 member States of the Council of Europe have signed the 1961 Charter or the 1996 Revised Charter and 38 have ratified either of these instruments.

About the Charter

Rights guaranteed

The rights guaranteed by the Charter concern all individuals in their daily lives, in such diverse areas as housing, health, education, employment, legal and social protection, the movement of persons, and non-discrimination.

National reports

The State 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. On the basis of these reports, the European Committee of Social Rights – composed of fifteen members elected by the Council of Europe's Committee of Ministers – decides, in "conclusions", whether or not the States complied with their obligations. In the second hypothesis, if a State takes no action on a decision of non-conformity, the Committee of Ministers addresses it a recommendation asking it to change the situation.

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 by certain organisations. The Committee's decision is forwarded to the parties concerned and the Committee of Ministers, which adopts a resolution, by which it may recommend that the state concerned take specific measures to bring the situation into line with the Charter.

Conclusions of the European Committee of Social Rights

The Conclusions (2005) have been published on paper: see references under "Publications".

Collective complaints

The three collective complaints mentioned in the previous issue have been declared admissible by the ECSR:

- Complaint No 30/2005 lodged against Greece by Marangopoulos Foundation for Human Rights (MFHR), alleging that in the main areas where lig-

nite is mined, the State has not adequately prevented the impact for the environment nor has developed an appropriate strategy in order to prevent and respond to the health hazards for the population. It is also alleged that there is no legal framework guaranteeing security and safety of persons working in lignite mines and that the latter do not benefit from reduced working hours or additional holidays. The Marangopoulos Foundation maintains that there is violation of Article 11 (right to protection of health), of Article 2 § 4 (elimination of risks for workers in dangerous or unhealthy occupations), of Article 3 § 1 (health and safety and the working environment) and of Article 3 § 2 (issue of safety and health regulations).

- Complaint No 31/2005 lodged against Bulgaria by the European Roma Rights Center alleging that Roma population is segregated in housing matters, lack legal security of tenure and forced evictions and lives in substandard conditions contrary to Article 16 of the Revised Charter and to the dispositions of Article E relating to non-discrimination.

- Complaint No 32/2005 lodged against Bulgaria by the European Trade Union Confederation (ETUC), Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "Podkrepa" (CL "Podkrepa") v. Bulgaria alleging that Bulgarian legislation restricts the right to strike in the health, energy and telecommunications sectors as well as for civil servants and railway workers in a way that is not in conformity with Article 6 § 4 of the Revised Charter.

Significant meetings

Nantes (France) from 5 to 7 September

A seminar of high level experts on economic, social and cultural rights was organised in Nantes (France) from 5 to 7 September, by the French Government and the International Commission of Jurists. Representatives of governments, diplomatic missions to the United Nations, non governmental organizations, courts of justice, universities as well as experts of monitoring mechanisms of international treaties such as the United Nations Covenant on Economic, Social and Cultural Rights and the European Social Charter. The results of this seminar constitute a contribution to the activities of the working group on the additional Protocol to the UN Covenant.

Meetings in Russia (Moscow and Belgorod)

Meetings took place in Russia in the framework of the Joint Programme Russia VIII between the Council of Europe and the European Commission.

Moscow

- On 19 September the delegation of the Social Charter was received by the Social Affairs Committee in the Duma.

- On 20 September a seminar was held with the representatives of the various involved ministries.

- On 21 September a meeting was organised with Judges of the Constitutional Court.

Belgorod

On 23 and 24 November a seminar took place with representatives of the Secretariat of the Social Charter, Ministry of Health and Social Development in Russia as well as local and regional authorities

Despite financial costs which are considered as an obstacle by the opponents, these meetings highlighted the interest in the Social Charter in the political and legal environment. It also showed the increasing awareness of this treaty and of fundamental social rights at many levels within Russian society, as well as the progress of activities developed towards ratification.

Publications

- Conclusions XVII-2 of ECSR on the application of the 1961 Social Charter, volume 1, ISBN 92 871 5828 2 and volume 2, ISBN 92 871 5830 4.
- Conclusions 2005 of ECSR on the application of the Revised Social Charter, volume 1, ISBN 92 871 5832 0 and volume 2, ISBN 92 871 5834 7.
- Speeches made during the conference organised by the European University Institute in Florence in June 2004 have been published: *Social Rights in Europe*, edited by Gráinne de Búrca and Bruno de Witte, Oxford University Press, 2005, ISBN 0 19 928799 6. The contents of this publication can be consulted on the Social Charter Web site under: 7_Resources/SocialRights_contents.

Website: http://www.coe.int/T/E/Human_Rights/Sce/

Convention for the Prevention of Torture

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.

Co-operation with the national authority is at the heart of the Convention, since the aim is to protect persons deprived of their liberty rather than to condemn states for abuses.

European Committee for the Prevention of Torture (CPT)

The CPT was set up under the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Secretariat of the CPT forms part of the Council of Europe's Directorate General of Human Rights. The CPT's members are elected by the Committee of Ministers of the Council of Europe from a variety of back-grounds: lawyers, doctors – including psychiatrists – prison and police experts, 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 the 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 number of *ad hoc* visits is constantly increasing and now exceeds that of periodic 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.

Periodic visits

Greece

A delegation of the CPT carried out a visit to Greece from 28 August to 9 September 2005. It was the Committee's fourth periodic visit to Greece.

The CPT's delegation followed up a number of issues examined during previous visits concerning the treatment of persons detained by law enforcement agencies, and focused particular attention on detention facilities for aliens in the eastern Aegean and Thrace. In addition, the delegation visited a number of prisons, including the Korydallos Prison Complex, and examined the treatment of patients at Corfu Psychiatric Hospital.

Norway

During this periodic visit to Norway, the CPT's fourth visit to this country, the delegation followed up a number of issues examined during previous visits, including, in particular, the fundamental safeguards against ill-treatment offered to persons deprived of their liberty by the police, the restrictions imposed upon remand prisoners and the situation in psychiatric hospitals. Further, the delegation examined the treatment of prisoners detained in units with very high security.

Ad hoc visits

Ukraine

A delegation of the Council of Europe's CPT carried out a visit to Ukraine from 9 to 21 October 2005. It was the CPT's fifth visit to Ukraine.

In the course of the visit, the CPT's delegation reviewed developments relating to the treatment of persons deprived of liberty by law enforcement agencies and the situation of foreign nationals detained under aliens legislation. It also assessed the current situation in colonies (establishments for sentenced prisoners) and, for the first time in Ukraine, in colonies for women. In this context, the delegation also examined in detail the conditions of detention of men and women sentenced to life imprisonment.

United Kingdom

The CPT carried out a five-day visit to the United Kingdom. The delegation examined the treatment of persons detained under the Terrorism Act 2000. In this context, the delegation visited Paddington Green High Security Police Station and Belmarsh Prison (London). The delegation also examined the practical operation of the Prevention of Terrorism Act 2005 and met various persons served with Control Orders.

Further, the delegation interviewed certain persons detained at Campsfield House Immigration Removal Centre (Kidlington), and examined conditions of detention in that establishment.

Another part of the visit was dedicated to monitoring the treatment and conditions of detention of a person convicted by the International Criminal Tribunal for the former Yugoslavia (ICTY), who is serving his sentence in the United Kingdom.

Reports to the governments following visits

After each visit, the CPT draws up a report which sets out its findings and includes recommendations and other advice, on the basis of which a dialogue is developed with the state concerned.

The Committee's visit report is, in principle, confidential; however, almost all states chose to waive the rule of confidentiality and publish the report.

Austria

Report on the CPT's visit in April 2004 and Government's responses (published 27 July 2005)

The CPT has published the report on its visit to Austria in April 2004, together with the Austrian Government's response. These documents have been made public at the request of the Austrian authorities.

During the 2004 visit, the CPT reviewed the measures taken by the Austrian authorities following the recommendations made by the Committee after previous visits. Particular attention was paid to the treatment of persons detained by the police and the legal safeguards provided to such persons, as well as to the conditions under which foreign nationals are detained under aliens legislation. The CPT also examined the situation of juvenile prisoners and of sentenced prisoners who had committed an offence under the influence of a mental disorder.

Malta

Report on the CPT's visit in January 2004 and Government's responses (published 25 August 2005)

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has published the report on the visit carried out to Malta in January 2004, together with the responses of the Maltese Government. These documents have been made public following a decision of the Maltese authorities.

In its report, the CPT examined in depth the treatment of persons deprived of their liberty under the immigration legislation. The Committee made a certain number of recommendations concerning the fundamental safeguards to be offered

to such persons and their conditions of detention. It also requested detailed information on several enquiries carried out into allegations of ill-treatment made by immigration detainees vis-a-vis law enforcement agencies.

In their responses, the Maltese authorities mention several measures taken following the CPT's recommendations, mainly relating to conditions of detention and legal safeguards. They also provide information concerning ongoing enquiries.

CPT's 15th General Report

Published 22 September 2005

The CPT's 15th General Report emphasises that the prohibition of torture and inhuman or degrading treatment is one of those few human rights from which there can be no derogations. Talk of "striking the right balance" is misguided when such human rights are at stake. Resolute action is certainly required to counter terrorism; but that action cannot be allowed to degenerate into exposing people to torture or inhuman or degrading treatment.

Addressing the current controversy over the use of "diplomatic assurances" in the context of deportations to countries with a poor human rights record, the Committee notes the arguments of principle against this practice. As to safeguards, the CPT indicates that it has yet to see convincing proposals for an effective post-return monitoring mechanism.

"To have any chance of being effective, such a mechanism would certainly need to incorporate some key guarantees, including the right of independent and suitably qualified persons to visit the individual concerned at any time, without prior notice, and to interview him in private in a place of their choosing" the CPT report reads. It would also have to offer means of ensuring that immediate remedial action is taken if assurances given are not respected.

The General Report includes details on the 17 visits carried out by the Anti-Torture Committee during the last twelve months. Comments are also made on the planned revision of the European Prison Rules and on the Twenty Guidelines on forced return of foreign nationals adopted by the Committee of Ministers last May.

Key extracts

Preface

The universal recognition of the prohibition of torture and inhuman or degrading treatment, and the collective enforcement of that human right at European level, occurred in the immediate aftermath of a world war, during which untold barbarities were committed in pursuit of intolerable ideologies. And it was a time of continuing uncertainty and danger. Is there anything so different about the international climate of today that would justify a change of course? In fact, it is precisely at a time of emergency that the prohibition of torture and inhuman or degrading treatment is particularly relevant, and the strength of a society's commitment to the fundamental value it embodies truly put to the test.

[…]

Diplomatic Assurances

The seeking of diplomatic assurances from countries with a poor overall record in relation to torture and ill-treatment is giving rise to particular concern. It does not necessarily follow from such a record that someone whose deportation is envisaged personally runs a real risk of being ill-treated in the country concerned; the specific circumstances of each case have to be taken into account when making that assessment. However, if in fact there would appear to be a risk of ill-treatment, can diplomatic assurances received from the authorities of a country where torture and ill-treatment is widely practised ever offer sufficient protection against that risk?

[…]

Guidelines on the forced return of foreign nationals

The Twenty Guidelines reflect many of the standards already developed by the Committee, in particular as regards conditions of detention pending removal and the procedures to be followed in the event of forced removal. […]

The CPT welcomes the emphasis placed in Guidelines 6 (2) and 10 (5 to 7) on the need to ensure that persons detained pending removal have access to a lawyer and a doctor, are able to inform their relatives of their situation, and are informed of their legal situation and rights. Similarly, it has noted with interest the references in Guidelines 5(2) and 9(2) to the need to make provision for legal aid in connection with remedies against a removal order or detention.

[…]

Revision of the European Prison Rules

First revised in 1987, the process of a further revision began in 2003, the task being given to the Council for Penological Co-operation (PC-CP). This second revision of the EPR has taken place against the backdrop of work carried out by the CPT, which has been organising visits to places of deprivation of liberty, including prisons, since 1990. The PC-CP's terms of reference as approved by the Committee of Ministers stipulate that the work undertaken by the CPT should be taken into account and refer to the need to consult the Committee as and when appropriate.

[…]

The General Report and further information on the CPT are available on the Committee's website.

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

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.

The convention

The Framework Convention entered into force in Latvia on 1 October 2005. There are now 37 States Parties to the Convention. An international Conference was organised in Riga on 29 November to discuss the implementation and monitoring of the Framework Convention.

First monitoring cycle

Adoption of Committee of Ministers' Resolutions

The Committee of Ministers adopted conclusions and recommendations in respect of Slovenia.

Follow-up meetings

Follow-up meetings to discuss how the findings of the monitoring bodies of the Council of Europe's Framework Convention for the Protection of National Minorities are being implemented were held in the following countries:

- Serbia and Montenegro: 10 October;
- "The former Yugoslav Republic of Macedonia": 3 October;
- Albania: 27-28 September;
- Poland: 26 September.

Second monitoring cycle

Second State Reports received

The Second State Report in respect of Norway was received on 19 October.

Advisory Committee visits

Finland

A delegation of the Advisory Committee on the Framework Convention visited Helsinki and Inari from 27 to 30 September in the context of the monitoring of the implementation of this convention in Finland. The visit was the 9th country visit conducted by the Advisory Committee in the second cycle of monitoring.

Romania

A delegation of the Advisory Committee on the Framework Convention visited Romania from 3 to 7 October in the context of the monitoring of the implementation of this convention in Romania. The visit was the 10th country visit conducted by the Advisory Committee in the second cycle of monitoring.

Kosovo

A delegation of the Advisory Committee on the Framework Convention visited Kosovo from 11 to 15 October in the context of the monitoring of the implementation of the Agreement signed on 23 August 2004 by the UN Interim

Administration Mission in Kosovo (UNMIK) and the Council of Europe related to the Framework Convention for the Protection of National Minorities.

Publication of Opinions of the Advisory Committee

Opinions and the Governments' Comments on them are available on-line on the Framework Convention Web site (monitoring mechanism).

Czech Republic

The second opinion of the Advisory Committee on the Czech Republic was made public on 26 October at the country's initiative.

Summary of the Opinion of the Advisory Committee

"Since the adoption of the Advisory Committee's first Opinion in April 2001 and of the Committee of Ministers' Resolution in February 2002, the Czech Republic has taken new commendable measures to improve the protection of national minorities. These measures demonstrate the authorities' commitment to establish a genuine public policy in the field. Positive developments are noted at the legislative level, in particular as regards the use of minority languages in the public sphere, as well as in the field of education. As regards practice, increased efforts have been made in most of the relevant sectors, with particular accent on the situation of the Roma. Additional measures have been also taken to improve inter-ethnic dialogue.

Difficulties persist, however, in the implementation of certain parts of the relevant legislation, notably at the local level. In addition to the unsatisfactory involvement of local authorities, there are reported difficulties with regard to the identification of the geographical areas concerned by such measures, as well as shortcomings in terms of participation of minority representatives. Further efforts should also be taken to strengthen prevention of, and fight against, intolerance and discrimination.

The situation of the Roma, which continues to be a matter of concern, requires more resolute action by the authorities. Priority should be given in this action to the considerable difficulties faced by the Roma in fields such as housing and employment, as well as to the educational situation of Roma children, and to the allegations of sterilisation of Roma women without their prior free and informed consent."

Italy

The second opinion of the Advisory Committee on Italy was made public on 25 October at the country's initiative.

Summary of the Opinion of the Advisory Committee

"Italy has taken steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2001 and the Committee of Ministers' Resolution in July 2002. This process has included valuable efforts to implement a coherent legislative framework to secure general protection to the recognised historical linguistic minorities. There has been a welcoming development of educational projects promoting minority languages and cultures and a range of initiatives have been taken at the municipal level to encourage the use of minority languages in their territorial areas of protection.

Further steps are still needed to implement the recommendations resulting from the monitoring of the Framework Convention. For example, more determined measures are required to implement legal provisions providing for an increase in the number of minority language broadcasts. Furthermore, support for educational projects needs to be strengthened both in terms of resources and sustainability.

A persisting political, legal and technical dispute over the demarcation of the territorial scope of application continues to hamper the implementation of Law 38/01 on the Slovene minority.

The lack of legal protection at the state level for the Roma, Sinti and Travellers needs to be addressed by the authorities, and a comprehensive strategy of integration at national level remains to be developed in consultation with those concerned."

Estonia

The second opinion of the Advisory Committee on Estonia was made public on 22 July at the country's initiative.

Summary of the Opinion of the Advisory Committee

"Estonia has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2001 and the Committee of Ministers' Resolution in June 2002. This process has included improvements in electoral and citizenship legislation as well as in the monitoring of language legislation.

There remain nevertheless shortcomings in the implementation of the Framework Convention. The positive measures to speed up and facilitate the naturalisation process need to be strengthened further, bearing in mind that the number of persons without citizenship, while gradually decreasing, remains disconcertingly high.

Legislation concerning language of instruction in secondary schools has been made more flexible, but the implementation of the pending reform has not yet been adequately prepared by the authorities. There is a need to find additional ways to facilitate contacts between pupils from different communities at all levels of education.

Despite some improvements in the related administrative practices, the Language Act still contains elements that are problematic from the point of view of the Framework Convention.

There is a need for additional targeted programmes to combat social marginalisation of persons belonging to national minorities."

Intergovernmental expert committee on national minorities

The second meeting of the Committee of experts on issues relating to national minorities (DH-MIN) was held in Strasbourg from 26 to 28 October. Part of the meeting was devoted to the examination of the role of consultative bodies of national minorities, a theme which the DH-MIN will examine in further details in forthcoming meetings.

The FCMN on the Internet: http://www.coe.int/minorities/
• e-mail: minorities.fcnm@coe.int

Law and policy

Intergovernmental co-operation in the human rights field

One of the Council of Europe's vital tasks in the field of human rights is the creation of legal policies and instruments. In this, the Steering Committee of 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 committees.

Seminar "Non-discrimination: a human right"

The Council of Europe organised a Seminar "Non-discrimination: a human right" in Strasbourg on 11 October 2005, to mark the entry into force of Protocol No. 12 to the European Convention on Human Rights (ECHR) on 1 April 2005. To date, the Protocol has been signed by 34 states and ratified by 11 states.

The aim of the Seminar was to examine the challenges to the effective application of this Protocol – which sets out a general prohibition of discrimination – with a view to promoting further ratifications. The discussions centred on the Protocol's scope of application, in particular as regards the notion of discrimination, indirect discrimination, positive measures, horizontal effects and relations with EU law. The seminar was also an ideal opportunity to exchange views about national experiences, hearing both from countries that have already ratified and from those that are still hesitant.

The seminar brought together government representatives of the 46 Council of Europe member states and of observer states, judges of the European Court of Human Rights, members of the European Commission against Racism and Intolerance (ECRI), and of the Parliamentary Assembly, academic experts and representatives of civil society, including NGOs active in the fight against discrimination, and national and international human rights institutions.

The conclusions of the Chair of the Seminar, Professor Emmanuel Decaux appear below.

General conclusions

This seminar is designed to mark the entry into force of Protocol No. 12 on 1 April 2005, three months after the 10th ratification, as the Deputy Secretary General, Maud de Boer-Buquicchio, pointed out at the outset. In her opening address she drew attention to the issues at stake, appealing clearly and directly for a commitment to the Protocol on the part of all Council of Europe member states.

So it has taken nearly five years for the Protocol to come into force since it was formally adopted in Rome at the Ministerial Conference held to mark the 50th anniversary of the European Convention on Human Rights. On the timescale of the Eternal City, five years may not seem very much and yet, given that we are dealing with an issue central to human rights, "the fundamental principle according to which all persons are equal before the law and are entitled to the equal protection of the law", to quote the preamble to the Protocol, it is telling that it took so long to remedy the shortcomings of the 1950 Convention. Admittedly, treaties move more slowly than human beings, and in particular have a different timescale from that of the daily victims of violations and discrimination, but that is a further argument for not introducing further delays and coming up with more pretexts in order to hinder full implementation of the Protocol.

The basic purpose of this seminar is no doubt to assess the obstacles, weigh up the issues at stake and seek ways and means of ensuring that each of the forty-six States Parties to the European Convention ratify the Protocol.

All these challenges make the Protocol's entry into force all the more important. First of all, it is a milestone in practical terms for the millions of European citizens concerned. If we draw up a geo-political map of the countries that have ratified it, the first eleven states are like oases scattered throughout the continent: the Netherlands and Finland to the north, San Marino and Cyprus to the south, Armenia and Georgia to the east and a central nucleus in the Balkans, with Albania, Bosnia and Herzegovina, Croatia, "the former Yugoslav Republic of Macedonia" and Serbia and Montenegro. Only three members of the European Union form part of this group: Cyprus, Finland and the Netherlands. The clout of the 24 signatory states that are waiting to see what happens has to be acknowledged. Apart from five States Parties that were not among the original signatories, only a few countries, such as Slovenia and Turkey in 2001 and Norway and Azerbaijan in 2003, and just recently Spain, have added their signatures to those of the countries that signed in Rome. What is more, a hard core of countries – and not the least important – has abstained from signing the new instrument, in particular Bulgaria, Denmark, France, Lithuania, Poland, Sweden, Switzerland and the United Kingdom. This is all the more alarming as these countries include a large number of European Union members. This seems to be holding back other potential signatories, whereas EU solidarity should, here as in other areas, provide momentum rather than prompt countries to wait and see what the others do.

The Protocol's entry into force is nevertheless an important event in collective terms, both symbolically and technically. The Court is now going to be able to implement Article 1 of Protocol No. 12, and the resulting case-law will make it possible to enhance it and interpret it more precisely. We can only hope that this development will provide new impetus, making it possible to rally the signatories now dormant, given that concrete results are now within grasp. Attention must also be drawn to the paradox likely to result if this snowball effect does not materialise, with an overly-long transition leading to a two-tier system in which equality is not the same for all Europeans. Protocol No. 9 introduced procedural differences, with two sets of rules of procedure, but it is, after all, exceptional for the same substantive principle to be applicable in either of two versions, according to the wishes of the States concerned. What impact will *res judicata* have when the Court has ruled on a matter of principle? This shows how desirable it is, if only for the sake of legal coherence and case-law consistency, for all the States Parties to the Convention to ratify Protocol No. 12 as soon as possible.

I. How can the reluctance, to say the least, of several states be explained? As far as principle is concerned, all these states have committed themselves on numerous occasions to equal rights and non-discrimination. These basic principles have underpinned all the major international legal instruments over the last 60 years, beginning with the Charter of the United Nations, which proclaims "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". This is a theme that recurs throughout the Charter whenever human rights are mentioned.

Following on directly from the Universal Declaration, the principle is set out in the two International Covenants dating from 1966, and in other United Nations specialised instruments. During the first sitting, Martin Scheinin reminded us of the Human Rights Committee's experience of the application of Article 26. For its part, the Sub-Commission on the Promotion and Protection of Human Rights embarked on a study of the scope of Article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, which was entrusted to Marc Bossuyt, Special Rapporteur. The study is all the more important as the working group of the Commission on Human Rights responsible for considering options for the elaboration of an optional protocol to the Covenant allowing individual petitions has highlighted the need for economic, social and cultural rights to be enforce-

able in the courts, the idea being that, as far as non-discrimination is concerned, they should be protected by both Covenants.

I would add that this mirror effect already exists between Article 14 of the European Convention and Article 26 of the Covenant on Civil and Political Rights, as is borne out by the sad saga of the case brought by former African soldiers in the French army. As far back as 1989, the Human Rights Committee ruled very clearly in the case brought by Guye and others that there had been discrimination on grounds of nationality in the enjoyment of retirement pensions, following the freezing of pensions paid to foreign veterans. After much hesitation and many contradictions, marked in particular by an opinion in the Dame Doukouré case, the *Conseil d'Etat* (France's supreme administrative court) eventually acknowledged the pension rights of the African veterans in the Diop judgment of 30 November 2001, but on the basis of the European Convention, applying Article 14 to Article 1 of Protocol No. 1, on the protection of property, rather than the findings of the Human Rights Committee … This judgment is now included among the leading judgments of the *Conseil d'Etat*!

Despite the growing amount of case-law on Article 14, at both domestic and European level – indeed, Judge Tsatsa-Nikolovska clearly highlighted the dynamic role recently played by the European Court – there is a discrepancy between the principle of non-discrimination as safeguarded at world level, through the two Covenants, and the principle enshrined in Article 14 of the Council of Europe Convention. Something could have been done to remedy this lag when Protocol No. 7 was adopted to bring the Convention up to scratch, but this was not to be.

There is all the less excuse for the European Convention to lag behind the Covenants now that the European Union has made the principle of non-discrimination one of the pillars of its action in all fields. The EU Charter of Fundamental Rights contains complex provisions linking European citizenship and non-discrimination, but the general principle is proclaimed without any ambiguity: "Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited" (Title III, Article II-81, paragraph 1 of the Treaty establishing a Constitution for Europe). The fact that account has been taken of forms of discrimination that were for a long time hidden, neglected or even allowed, such as those based on disability, age and sexual orientation, is particularly important when it comes to raising awareness among the authorities but also among civil society. For instance, European action against homophobia is all the more important as the general climate is hardly conducive to an awareness of the issue, as is borne out by the repeated debates on the subject, whether in the Sub-Commission, the Commission on Human Rights or the Third Committee of the General Assembly.

The number of forms of discrimination taken into account has likewise increased in individual countries, which have either set up several specialised institutions modelled on the various Swedish Ombudsmen, or established institutions with general powers, whether by merging existing commissions as in the United Kingdom or by setting up institutions from scratch, as in the case of the new *Haute autorité de lutte contre les discriminations et pour l'égalité* (HALDE), the authority established to combat discrimination and promote equality in France. The European Union is facing the same dilemma, as it considers transforming the Vienna Observatory on Racism and Xenophobia into a European Agency for Fundamental Rights. The juxtaposition of specific and general responsibilities is also found in the United Nations system, with specialised bodies such as the Committee on the Elimination of All Forms of Racial Discrimination (CERD) and the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW).

The experience of the European Commission against Racism and Intolerance (ECRI), represented here by its Chair, Michael Head, is particularly significant, in that it reminds us of the importance of combating racism and intolerance. As

he pointed out, it was a request from ECRI concerning racial discrimination that provided the starting point for Protocol No. 12, while, for its part, the Steering Committee for Equality between Women and Men advocated a Protocol on sexual discrimination. It is fortunate that these two approaches should have led to a general clause, which prevented the different forms of discrimination from being ranked in order of importance.

Even so, there were those who, during the debate, deplored the fact that Protocol No. 12 was limited to the list of forms of discrimination established in 1950. It is of course impossible, at this stage, to go back on the approach chosen by those who drafted the Protocol. Legally speaking, as has been pointed out, Protocol No. 12 is worded in such a way that it does cover all forms of discrimination, since the list begins with the words "such as" and ends with the words "or other status" – and the case-law of the European Court of Human Rights has already extended the list considerably, as Ms Tsatsa-Nikolovska pointed out, with a number of examples. It is only for symbolic reasons, with public opinion in mind, that one can condemn the fact that "new" forms of discrimination are not explicitly mentioned, even though any attempt to rewrite the list would lay itself open to arguments against such a course of action, which would lead to further shortcomings. I repeat, the text of the Protocol does not exclude any form of discrimination, which is all the more reason to step up efforts to raise awareness of all types of discrimination and of the situation of the most vulnerable groups.

In stating our priorities, however, we must not underestimate other forms of discrimination. Being general in two respects, in that it covers all forms of discrimination in respect of the enjoyment of "any right set forth by law", Protocol No. 12 obliges us to broaden the Convention's scope considerably.

II. Indeed, the first panel was devoted to the scope of Protocol No. 12 with regard both to the European Convention and to its relationship with other international instruments. As Marc Bossuyt pointed out, with his usual frankness, Protocol No. 12 adds nothing new in substantive terms. The principle is already broadly enshrined within the various countries and at international level. What is new is merely – though it is no doubt a great deal, not to say too much, for many states – the extension of the Strasbourg Court's jurisdiction. The obstacles are probably the additional workload for the Court – I shall come back to this – and, more important, the weight given to case-law.

The classic argument over the role of parliament, particularly when it comes to the national allocation of resources, in relation to the powers of interpretation of the Court is compounded here by a reluctance to forfeit the margin of appreciation enjoyed by individual states in favour of blind confidence in a supranational court. The debate showed that the European Court needed to provide reassurance and to "prove itself", as though the wealth of case-law stretching back over a period of nearly 40 years had not already defined an approach that is both dynamic and cautious. Mr Head described the case-law on Article 14 as "both reassuring and disappointing", before going on to say that the wording of Protocol No. 12 was "simultaneously ambitious and timid", insofar as the reference to equality appeared only in the preamble and discrimination in relations between private individuals was a dimension not covered by the law. States are, however, reminded of their positive obligations, in that they must respect, and ensure respect for, the principle of non-discrimination, by virtue of the fundamental principle set out in the preamble, according to which all persons are "entitled to the equal protection of the law".

The debate has, however, made it possible to dissipate a number of misunderstandings, particularly with regard to the role of the preparatory work and, in particular, the explanatory report. When it comes to "positive discrimination", which the preamble seeks to address, there is, in accordance with ordinary law on non-discrimination, no room for uncertainty, as is amply illustrated by comparative case-law and the general comments of the various United Nations treaty bodies, although there were fears in certain quarters that affirmative action measures might be affected by the

Protocol. Morten Kjærum, in his capacity as member of CERD, made this quite clear.

Similarly, the fact that several judges took part in the debate, even if there was no question of their deciding in advance what the official position of the Court might be, made it possible to highlight the full impact of the opinion delivered on 6 December 1999. As Jeroen Schokkenbroek pointed out, it was delivered at a plenary administrative meeting, in other words one at which all the judges were present, which was even more representative than a Grand Chamber. Thus, "as regards the substantive content of the Protocol, [the Court] notes, in relation to Article 1, that the draft Explanatory Report (see paragraph 18) refers to the notion of discrimination as consistently interpreted in the case-law of the Court, namely that a difference of treatment is discriminatory if it has no objective and reasonable justification, that is if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realised. As the Court put it in the Belgian Linguistic case, "the competent national authorities are frequently confronted with situations and problems which, on account of differences inherent therein, call for different legal solutions" (judgment of 23.7.68, Series A no. 6, p. 34, § 10). This is further reflected, consistently with the subsidiary character of the Convention system, in the margin of appreciation accorded to the national authorities in assessing whether and to what extent differences in otherwise similar situations justify a difference of treatment in law (see, among other authorities, Rasmussen v. Denmark, judgment of 28.11.84, Series A no. 87, p. 15, § 40" (paragraph 5).

The Court's case law will clearly follow on from what has gone before, espousing the dialectics that have been at the heart of distributive justice since Aristotle and Pythagoras. There is no reason to be afraid that the Court will abandon its traditional role of reducing uncertainty, as Professor Renucci feared. The European Court of Human Rights already has a wealth of case law that has clearly shown – as does that of the United States Supreme Court and European constitutional courts – that equality is not the same as uniformity, the sort of equality one finds in army barracks, but is closer to equity, in that it takes full account of the diversity of situations. As the French Constitutional Council repeatedly states, the principle of equality "does not mean that the law cannot deal with different situations in different ways, or that it cannot make exceptions to equality in the public interest provided that, in both cases, the resulting difference in treatment is proportionate to the purpose of the law providing for it". In short, the idea is to deal with identical situations in an identical manner and different situations in a different manner. The fact is, however, that the increasingly sophisticated assessment involved can be carried out only by a court, in concrete situations.

There was, however, a limit to European case law, inherent in the fact that Article 14 was constructed in such a way that it was, if not a "dependent clause", at least an "ancillary provision" in the technical sense of the word, even though a violation of Article 14 could, in theory, be ascertained even without a violation of one of the rights secured by the Convention. Yet in contrast to, for instance, the experience of the Human Rights Chamber for Bosnia and Herzegovina which, under the Dayton Agreement, applied the "test" of non-discrimination as a priority, the European Court's case law relegates the issue to the last paragraphs of its judgment. This shows that, only too often, probably less out of a reluctance as a matter of principle to take account of certain forms of discrimination than out of a concern for "economy of means", it concentrated on substantive violations rather than seeking unnecessarily to ascertain whether any discrimination was attached to them. There is therefore all the more reason to pay tribute to the pioneering efforts of Judge Louis-Edmond Pettiti, who, in his dissenting opinion on the Buckley judgment of 25 September 1996, highlighted the full potential of Article 14 in connection, in particular, with the institutional discrimination suffered by Roma.

In this respect, Protocol No. 12 is just what is needed to bring the principle in Article 14 to the fore, by making the "general prohibition of discrimination" a fully-fledged right, a legal priority, and

no longer an "ancillary right" in both the literal and the figurative sense. This concern is all the more important now that new challenges are emerging, a point that Mr Jim Goldston, Executive Director of the Open Society Justice Initiative, made clear, concentrating as he did in his statement on the risk of discrimination inherent in measures to counter terrorism, particularly with profiling techniques.

III. So how can we take things a stage further? How can we pave the way for ratification in practice? That was the issue discussed by the second panel, which concerned the challenge of preparing for ratification. The debate was first broached from the political angle, with a presentation by a member of the Council of Europe Parliamentary Assembly who sits on the Committee on Legal Affairs and Human Rights, Mr Boriss Cilevics, who made a point of demonstrating that the situation was paradoxical, since new member states had been required to ratify the Protocol as part of the monitoring exercise concerning their commitments, without the "old" member states having to commit themselves. He stressed that, given their "wait-and-see" attitude, it was essential that unfounded fears concerning Protocol No. 12 should not, in turn, cause hopes to be dashed.

The example of Croatia, presented by Ms Šimonovic, Head of the Human Rights Department of the Ministry of Foreign Affairs, clearly demonstrates the welcome chain of events triggered by ratification of the Protocol, by virtue of the principle of subsidiarity. The entry into force of the Protocol will, by strengthening the powers of the Constitutional Court, act as a spur for the national courts and serve as a driving force for legislative reform and the establishment of new institutions, such as ombudsmen. It is therefore initially at domestic level that the issue of the implementation of the Protocol arises. Conversely, there is no point in increasing the number of international safeguards before the European Court, the Human Rights Committee, CERD and CEDAW unless a system is established to enforce the decisions of these bodies and so complete the process.

For his part, Mr Kissane of the Department for Constitutional Affairs voiced the United Kingdom's hesitations. While not ruling out a change of attitude, he drew attention to the uncertainties that persisted. He pointed out that the United Kingdom was firmly committed, in terms of both principle and policy, to promoting racial equality and social cohesion. He observed that, since the Amsterdam Treaty, the European Union had gone still further, by directly covering the private sphere – as Mr Mark Bell had pointed out in his statement on EU law – and accordingly wondered what Protocol No. 12 would add. The debate did, however, highlight the fact that the Council of Europe Protocol and European Union legislation are different in nature, serve different functions and are therefore complementary. Professor Wintemute referred to the constitutional nature of the law of the Convention. Whereas the EU directives did not cover all grounds for discrimination, or all the areas of life in which inequality still existed, Protocol No. 12 established the general principle of non-discrimination. This was an essential legal basis for restoring equality, whether in law or in respect of action by the authorities.

The other argument put forward was the need to set an example, to exercise leadership, which was precisely what was expected of a country like the United Kingdom. Quite apart from the experience of each individual country, what was at stake was a collective momentum, because of the consequences of the Protocol's entry into force for the Convention system. It is necessary to face up to the fact that all the individual misgivings and technical obstacles also reflect a more general uncertainty, echoed by the Court itself in its 1999 opinion when it referred to the burden the reform would place on its own work at a time when the new Court had just been set up.

Robert Badinter's contribution to *Mélanges Pettiti*, published in 1998 under the title *"Du protocole n° 11 au protocole n° 12"*, was an exercise in legal fiction, a risky one, as is the case with any projection in time, which referred to "reform of the reform" – what was to become Protocol No. 14 – and not our Protocol No. 12. But today the title is prescient. There is indeed a close link between Pro-

tocol No. 11 and Protocol No. 12, between states' uncertainty about the present workings of the Court and the reluctance to burden it with new responsibilities in the future. Indeed, the quantitative forecasts show that the term "burden" is no exaggeration. Yet can we postpone steps to ensure that the principle of non-discrimination is fully safeguarded on the grounds that we lack financial or human resources? The means must be adapted to the principles and not the other way round. Jean Kahn, who founded the Vienna Observatory, made this point to a European minister who took the view that implementing equality between women and men had cost too much for the European Community to embark on combating racial discrimination.

Countering inequality and discrimination is a recurrent political theme today: it is a legal requirement and a moral obligation for all our countries. It is hard to see how the European Convention on Human Rights could be lastingly deprived of this new tool, and difficult to understand what acceptable argument could be used against the implementation of a fundamental principle. It is even harder to understand how we could allow the European system to be lastingly left behind in such a key area, given the developments in international and EU law, without undermining its coherence as a "model" for the collective safeguarding of human rights.

If the principle embodies a degree of uncertainty, it is precisely for the European Court and the national courts to provide the necessary clarification, with due regard for individual countries' margin of appreciation, in the light of the concept of proportionality and/or the criterion of reasonableness.

A commitment to this effect is all the more important for countries which, like France, reject the idea of assigning collective rights to groups or communities, stressing that all citizens have equal rights. By enshrining – whether in Article 14 or in Protocol No. 12, Article 1 of which uses the same wording – the rejection of any discrimination based on "association with a national minority", the European Convention provides a bridge making it possible to reconcile the two positions in practice, thereby ensuring that human rights are fully effective. This point was made by the National Consultative Commission for Human Rights in its reply to the third ECRI report on France, when it unanimously said that France had no intention of ratifying the Framework Convention on National Minorities, but recommended ratification of Protocol No. 12 as soon as possible. It is through non-discrimination that the abstract equality so often proclaimed in vain can become true equality in terms of rights and opportunities.

On a positive note this time, the link between Protocol No. 11 and Protocol No. 12 also implies that the dialectic between the promotion and the protection of human rights or, to use vocabulary more familiar in Strasbourg, between development and procedure must be preserved. If I may be quite frank here, the idea of putting the activities of the DH-DEV on the back burner strikes me as regrettable, both symbolically and for practical reasons. When I took part in the work of the CDDH nearly 20 years ago, we discussed the Austrian initiative that sought to enshrine economic and social rights in an additional protocol! Very fortunately, the European Social Charter has since blossomed, as Jean-Michel Belorgey, Chair of the European Committee of Social Rights, pointed out.

The fact remains that the European Convention suffers from a substantial "social deficit". In the absence of a new breakthrough in substantive terms, Protocol No. 12 provides access to all the rights secured by the state, thus making it possible to take account of economic and social rights, beyond the narrow scope of "possessions", a term which, by definition, allows only those fortunate enough to possess property, within the meaning of Article 1 of the Additional Protocol, to benefit. It seems to me essential to come back to economic and social rights in the European context in order to combat discrimination and exclusion on the ground, which are an affront to human dignity: to come back to what are the "poor relations" as far as human rights are concerned, a judgment expressed by Pierre-Henri Imbert with his usual intellectual rigour and moral courage in an article that made its mark.

In a Europe without dividing lines, whose social model is in a state of crisis, a Europe torn between individualism and globalisation, Protocol No. 12 is not only a technical tool – an expedient to be left aside or shelved for future use – but an instrument that reveals our collective desire for a fairer, more caring society based on the equal dignity of all human beings – of every man and woman, including those who are most vulnerable.

Human rights are meaningless unless they are enjoyed by everybody. They are primarily "the rights of others", as Emmanuel Lévinas pointed out. More than ever, the principle of non-discrimination must be at the heart of human rights but, equally, if not more so, human rights must be rooted in the principle of non-discrimination. If all roads lead to Rome, they must also lead to Strasbourg.

European Commission against Racism and Intolerance (ECRI)

The European Commission against Racism and Intolerance (ECRI) is an independent human rights body monitoring issues related to racism and racial discrimination in the 46 member states of the Council of Europe.

ECRI's programme of activities comprises three inter-related aspects: country-by-country approach; work on general themes; and activities in relation to civil society.

Country-by-country approach

In the framework of this approach, ECRI closely examines the situation concerning racism and intolerance in each of the member states of the Council of Europe. Following this analysis, ECRI draws up suggestions and proposals addressed to governments as to how the problems of racism and intolerance identified in each country might be overcome, in the form of a country report.

In 2003 ECRI started work on the third round of this country-specific monitoring. The third round reports focus on implementation, by examining whether and how effectively the recommendations contained in ECRI's previous reports have been implemented. The reports also examine in more depth specific issues, chosen according to the situation in each country. ECRI's country-by-country approach concerns all Council of Europe member states on an equal footing and covers between ten and twelve countries per year.

In Autumn 2005 ECRI carried out contact visits to Cyprus, Denmark, Italy, Luxembourg and the Russian Federation, as part of the process of preparing third round reports on these countries. The aim of ECRI's 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 work on general themes covers important areas of current concern in the fight against racism and intolerance, frequently identified in the course of ECRI's country monitoring work. This work has often taken the form of General Policy Recommendations addressed to the governments of member states, intended to serve as guidelines for policy makers. ECRI has also produced compilations of good practices to serve as a source of inspiration in the fight against racism.

Work on the issue of ethnic data collection

ECRI has regularly recommended to the governments of member states of the Council of Europe to collect relevant information broken down according to

categories such as nationality, national or ethnic origin, language and religion, given that accurate data is a precondition for devising effective antidiscrimination policies.

In order to further develop its approach in this respect, ECRI undertook a consultation and deliberation process on the issue of ethnic data collection. As a result ECRI has started working on a mapping exercise, with the help of an outside consultant. A questionnaire will be sent to national data protection agencies and institutes for statistics in order to establish a grid giving an overview of the existing legal and practical framework for ethnic data collection in member states.

Relations with civil society

Round Tables

ECRI Round Table, Vienna, 13 September 2005

Austria

On 13 September 2005 ECRI held a Round Table in Vienna, as part of a series of national round tables held in the member states of the Council of Europe, which are organised in the framework of ECRI's Programme of Action on Relations with Civil Society.

The main themes of ECRI's Round Table in Austria were ECRI's Third Report on Austria (published on 15 February 2005); policies and practice with regard to asylum, immigration and integration; racism, antisemitism and xenophobia in political discourse and in public sphere and the implementation of anti-discrimination laws in Austria.

Poland

On 8 November 2005 ECRI held a Round Table in Warsaw. The main themes of this Round Table were: ECRI's Third Report on Poland (published on 14 June 2005); racism and xenophobia in public discourse and in the public sphere; combating racism and racial discrimination against Roma and the legislative and institutional framework for combating racism and racial discrimination in Poland.

These issues were discussed with representatives of the responsible governmental agencies and victims of discrimination in the light of ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and the recently established legislative and institutional framework for combating racism and racial discrimination in Poland. A whole session was dedicated to combating racism and racial discrimination against Roma, with a special emphasis on the practical implementation of the Programme for the Roma community in Poland 2004-2013. The dangers of racism and xenophobia in public discourse and in the public sphere were also analysed in more detail by renowned experts in this field.

Co-operation with NGOs

NGOs are ECRI's key partners of in the fight against racism and intolerance. ECRI's aim is to build up a network of NGOs working in partnership with ECRI, including through the exchange of information and organising meetings

and consultations. Since the adoption of its Programme of Action on Relations with Civil Society, ECRI holds regular consultation meetings with a number of international NGOs in order to have comprehensive exchanges of views about future co-operation between NGOs and ECRI. ECRI's last consultation meeting with international NGOs took place on 21 November 2005 in Paris.

Inter-agency co-operation

On the invitation of the Chair of ECRI, an Inter-Agency Meeting was organised in Paris on 1 September 2005. The participants at this meeting were representatives of the Office of the High Commissioner for Human Rights (OHCHR), as well as of the Secretariat of the Committee on the Elimination of Racial Discrimination (CERD) of the United Nations, the Office for Democratic Institutions and Human Rights (ODIHR), two of the three Personal Representatives of the Chairman in Office of the OSCE, the European Monitoring Centre on Racism and Xenophobia (EUMC) and ECRI. The meeting allowed for an exchange of information concerning recent developments in the field of combating racism within each organisation and for a discussion on specific lines of action for future co-operation.

ECRI's Internet site: http://www.coe.int/ecri/

Human rights co-operation and awareness

Training

Training workshop for police officers

Baku, 24-25 October 2005

The workshop formed part of a project on human rights training of law-enforcement officials in Azerbaijan. It focused on Article 11 of the European Convention on Human Rights, in particular the State's obligations under this article and the implications for the police, notably in connection with the November elections.

It followed a seminar on Freedom of Assembly for law-enforcement officials, held in Baku earlier this autumn. Fifty police officers attended the event.

Azerbaijan

Training session for lawyers on the ECHR

Mali i Robit, 28 September-1 October 2005

The sixth in a series of training sessions for Albanian lawyers on the ECHR was held in Mali i Robit. The activity was organised in co-operation with the European Centre, an Albanian NGO, within the framework of the European Commission and Council of Europe Joint Programme for Albania. When the programme ends, approximately 90% of Albanian lawyers from all over the country will have been trained on the ECHR, using local trainers trained specifically for this cascade programme.

Albania

First of a series of three "Train-the-Trainers" sessions for judges and prosecutors on the ECHR

Pristina, 21-24 September 2005

The training programme for future trainers, organised in co-operation with the Kosovo Judicial Institute, is aimed at creating a pool of judges and prosecutors from Kosovo, who will subsequently become trainers on the ECHR.

The first session focused on Articles 1, 2, 3 and 5 of the ECHR. The participants were also coached in methodology and the most effective ways to carry out training on the ECHR.

Kosovo (Serbia and Montenegro)

Training programme for Turkish lawyers on the ECHR

Trabzon, 17 September 2005
Malatya, 8 October 2005
Konya, 22 October 2005

In co-operation with the Turkish Union of Bar Associations within a joint project between the European Commission and the Council of Europe, HRCAD has launched a series of ten one-day sessions for lawyers on the ECHR in different parts of Turkey. The programme began with a training session on the right to a fair trial for 60 lawyers selected by the Bar Association of Trabzon. Two other sessions in Malatya and Konya with 60 participants each were devoted to the right to life and the right to freedom of expression.

The participants engaged in lively debates on the Turkish cases before the European Court of Human Rights, as well as in practical exercises on the application of the Strasbourg case law domestically. They also received a large number of human rights publications in Turkish.

Turkey

51 training seminars for prosecutors on the ECHR

Different regions of Ukraine, 15 September-31 October 2005

51 regional training seminars on the ECHR for Ukrainian prosecutors were organised in co-operation with the Office of the Prosecutor General of Ukraine and the Association of Prosecutors of Ukraine, within the framework

Ukraine

of the European Commission and Council of Europe Joint Programme to Promote and Strengthen Democratic Stability in Ukraine (Ukraine V). When the programme ends, approximately 90% of Ukrainian prosecutors will have been trained on the ECHR, using local trainers trained specifically for this cascade regional seminars.

Study visits

Azerbaijan

Senior police officers from Azerbaijan visit Germany and Spain

24-30 September 2005 and 15-22 October 2005

Study visits to Hahn-Flughafen (Germany) and Mollet del Vallès (Spain) were organised for senior police officers from Azerbaijan. The aim of these study visits was to give the police officers an insight into how police services in other European countries deal with human rights issue in their everyday policing and *vis-à-vis* the public and persons in their custody. These visits also focused specifically on the implementation of the principles relating to Article 11 of the European Convention on Human Rights.

Turkey

Study visit to Denmark for senior law enforcement officials from Turkey

Broendby, 15-21 October 2005

A study visit to Broendby (Denmark) was organised for senior law enforcement officials of the Turkish Gendarmerie. During the visit, particular attention was given to the development of the curricula of the Gendarmerie and the mainstreaming of human rights into Gendarmerie training at all levels.

Conferences and colloquies

Asylum-seekers

Third Colloquy on the ECHR and the Protection of Refugees and Asylum-Seekers

Strasbourg, 14 October 2005

The Directorate General of Human Rights of the Council of Europe and the United Nations High Commissioner for Refugees organised the 3rd Colloquy on "The European Convention on Human Rights and the protection of refugees, asylum-seekers and displaced persons".

As a follow-up to two previous colloquies organised in 1995 and 2000, this event constituted the third stage of a process of reviewing the European Court of Human Rights' case-law relevant to the protection of asylum-seekers and refugees.

The colloquy aimed at examining the Common European Asylum System (notably the standards on the qualification for refugee status and subsidiary protection against the background of the non-refoulement provisions) in the light of the European Convention of Human Rights as well as of the UNHCR protection standards.

The role of justice

Conference: "Strengthening the role of justice in the protection of human rights in the Chechen Republic"

Kislovodsk, Russian Federation, 28-29 July 2005

This conference organised in co-operation with the Office of the Ombudsman in the Russian Federation and the Commissioner for Human Rights of the Council of Europe focused on means to prevent cases of missing persons and provided a basis for the future drafting of "Guidelines to the authorities and other bodies to enable them to strengthen their efforts in fighting impunity", as well as "Guidelines to victims and persons acting on their behalf".

The event brought together over 100 participants including the Commissioner for Human Rights in the Russian Federation and other high officials of the Federation. The "Conclusions" of the conference took into account the suggestions made in order to improve the legal

human rights situation, to undertake urgent measures concerning missing persons, to strengthen the co-operation between all national agencies and authorities and to establish a constructive dialogue with the population and the NGOs.

Awareness-raising

First awareness-raising seminar on ECHR issues and the role of civil society in the protection of human rights

Tirana, 20-21 October 2005

A selection of Albanian NGOs from Tirana and the regions were trained on the monitoring mechanisms of the Council of Europe and on the techniques of reporting on human rights violations and the situation in the country to these monitoring mechanisms.

The activity was organised in co-operation with the European Centre, an Albanian NGO.

Albania

Video on the European Court of Human Rights and publication of the Human Rights Manual for Prosecutors

September 2005

A video about the European Court of Human Rights has been produced in Ukrainian. It will be shown to prosecutors during the regional training seminars that are being organised under JP Ukraine V throughout Ukraine.

The Human Rights Manual for Prosecutors, published by the International Association of Prosecutors has been translated into Ukrainian. It is being distributed to prosecutors throughout Ukraine.

Ukraine

Website: http://www.coe.int/awareness/

European human rights institutes

Through their research and teaching activities, the Institutes take an important part in the development of human rights awareness.

The following non-exhaustive list gives an outline of the human rights Institutes' resources. The reports on the activities are provided by the Institutes, and are presented in the language in which they were drafted.

Austria

European Training and Research Centre for Human Rights and Democracy (Europäisches Trainings- und Forschungszentrum für Menschenrechte und Demokratie)

Mozarthof, Schubertstrasse 29, A-8010 Graz
Tel.: +43/(0)316 322 888/Fax: +43/(0)316 322 888, ext. 4
E-mail: office@etc-graz.at
Internet: www.etc-graz.at

Publications

Manual

The Manual contains an introduction and thirteen modules on different human rights as well as selected activities, additional references and teaching methodology. Translations into German, French, Spanish, Russian, Arabic, Italian, and many other languages are either completed or in progress.

Newsletter

The Newsletter is published four times a year and contains information about human rights, human security and the activities of the ETC.

Human Security Perspectives

As a journal on different topics of the concept of human security, the Perspectives are a forum for the scientific discussion of the issue, but also offer young researchers the possibility to have their works on the field published online.

Summer academies/Training/Lectures

– The ETC organises a yearly *summer academy*, with a different special focus each year (in 2005: the role of education to a democratic citizenship).

– *Anti-Discrimination-Training for Judges and Prosecutors*: The goal of this transnational EU-project is to produce a training concept and manual to integrate the non-discrimination aspect in judicial training in Austria, Slovenia, Hungary and Slovakia.

– Lecture Series "Understanding Human Rights": The Lecture Series is open to students of all faculties; it is based on the ETC's Manual "Understanding Human Rights".

– European Master Programme on Human Rights and Democratisation: The ETC advises for the University of Graz the students participating in the European Master Programme on Human Rights and Democratisation. They are especially guided in their second semester and in the writing of their master thesis.

Library

The ETC hosts a library with more than 1 000 books and journals.

Human Rights Network International (HRNi)

Belgium

HRNI – ULB – CP 132,
50 Av. F.D. Roosevelt, B-1050 Bruxelles
Tél. : +32 2 650 47 16/Fax : +32 2 650 40 07
E-mail : hrni@ulb.ac.be
Internet : www.hrni.org/
www.findhumanrights.org

Parmi ses activités, HRNi a développé une *base de données bilingue* (français/anglais) sur les droits de l'homme. On y trouve, classés par thème, le texte intégral des arrêts de principe de la Cour européenne des Droits de l'Homme, de la Cour interaméricaine et du Comité des droits de l'homme des Nations Unies, mais aussi les conventions internationales et régionales relatives aux droits de l'homme, les rapports des Nations Unies ou des organisations non gouvernementales, des articles de doctrine, les références aux ouvrages pertinents, ainsi qu'un portail des sites Internet sur les droits de l'homme et un répertoire des acteurs (ONGs, Universités, OI) jouant un rôle en la matière.

Bulgarian Lawyers for Human Rights Foundation

Bulgaria

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Internet: www.blhr.org

Legal help

The Foundation's lawyers provide legal help in cases of alleged violation of human rights both by consultations and by litigation before the domestic and international courts. The only criterion is that a given case should be considered as strategic that is to say that it corresponds to the Foundation's basic goals.

Information and publications

The Foundation distributes information and materials about international human rights law and practice.

Recent publications include:

– *The theory and practice of the European Convention on Human Rights* by P. van Dijk and G.J.H. van Hoof, 3rd ed.

– *Judgments delivered by the European Court on Human Rights against Bulgaria*. The Foundation is the only Bulgarian organisation which translates and makes public all the European Court judgments held against the country. Most important of them are published in separate books and the rest are included in different electronic law databases.

– *Human Rights Quarterly Magazine*. The Magazine has been published since 2000. The topic of each is focused on certain human rights problems that are of public significance. The magazine presents articles, European Court case-law, practice of other international judicial institutions, etc.

– *Human rights electronic database* (currently in preparation). It will include all the materials prepared by the Foundation that are relevant and important for the protection of human rights.

Training courses

The Foundation is involved in conducting training courses for lawyers and magistrates aimed at improving their skills to make use of the European Convention provisions in their everyday work.

Finland

Institute for Human Rights at Åbo Akademi University

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Main services for the public are: human rights library, Council of Europe and United Nations depository library, bibliographic reference database for human rights literature (FINDOC).

Publications

– Allan Rosas, *The Legal Status of Prisoners of War: A Study in International Humanitarian Law Applicable in Armed Conflicts* (repr.). ISBN: 952-12-1571-2. 523 pp.

– Janne Lindblad and Markku Suksi, *On the Evolution of International Election Norms: Global and European Perspectives*. ISBN: 952-12-1477-5. 126 pp.

– Mikaela Heikkilä, *International Criminal Tribunals and Victims of Crime*. ISBN: 952-12-1412-0. 241 pp.

– Martin Scheinin and Reetta Toivanen (eds), *Rethinking Non-Discrimination and Minority Rights*. ISBN: 952-12-1306-X. 254 pp.

Courses

– Course on the International Protection of Human Rights, 20 February-3 March 2006. For undergraduate students and other persons with a basic knowledge of human rights law and legal concepts.

– *Advanced Course on the International Protection of Human Rights*, 14-25 August 2006. An intensive course for post-graduate students with a good basic knowledge of human rights law

– *Master's Degree Program in International Human Rights Law* 2006-2008. Starting in September 2006; open for applicants holding a law degree or another bachelor's degree with a major in law.

France

Institut de droit européen des droits de l'homme, Montpellier

Equipe d'acueil (EA n° 3976), Faculté de Droit, Université de Montpellier I
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Bibliothèque

Bibliothèque spécialisée en droit de la Convention européenne des Droits de l'Homme, droit international des droits de l'homme, droit communautaire.

Publications

– *Cahiers de l'IDEH*, n° 9, 2003, 369 p.

– *Le droit au respect de la vie familiale au sens de la Convention européenne des Droits de l'Homme* (dir. F. Sudre), Bruylant, n° 38, 2002, 410 p.

– *Le ministère public et les exigences du procès équitable* (dir. I. Pingel et F. Sudre), Bruylant, 2003, 267 p.

– *Le droit au respect de la vie privée au sens de la Convention européenne des Droits de l'Homme* (dir. F. Sudre), Némésis-Bruylant, coll. Droit et Justice, n° 63, 2005, 336 p.

– F. Sudre, J.P. Marguénaud, J. Andriantsimbazovina, A. Gouttenoire, M. Levinet, *Les grands arrêts de la Cour européenne des Droits de l'Homme*, Presses Universitaires de France, coll. Thémis, 3e éd., 2005, 770 p.

– Chronique de jurisprudence de la Cour européenne des Droits de l'Homme (dir. F. Sudre), *Revue du droit public*, 2004, pp. 797-853 ; 2005, pp. 755-815.

Enseignement

Master 2 Recherche droit européen des droits de l'homme

Colloques

Laïcité, liberté religieuse et Convention européenne des Droits de l'Homme, Montpellier, 18 novembre 2005. Actes à paraître aux éditions Bruylant-Némésis, collection Droit et Justice.

Centre de recherche sur les droits fondamentaux et les évolutions du droit (CRDFED)

Université de Caen, UFR de Droit
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Internet : www.unicaen.fr/mrsh/crdf/

Documentation

Le CRDFED dispose d'une *bibliothèque spécialisée* comportant quelque mille ouvrages papier ainsi que des collections électroniques (revues spécialisées, base CODICES etc.).

Il publie, depuis 2001, une revue intitulée *Les Cahiers de la Recherche sur les Droits Fondamentaux*, éditée par les Presses Universitaires de Caen. Chaque numéro (un par an) porte sur un thème spécifique. Le numéro 4 de la revue (décembre 2005) est consacré à la laïcité. Le numéro 1 (la garantie juridictionnelle des droits fondamentaux) est disponible en ligne sur le site du CRDFED ; les numéros suivants sont disponibles au prix de 15 euros auprès de Monsieur Gilles Armand, directeur de la rédaction (gillesarmand@hotmail.com).

Colloques/Journées d'études

Le CRDFED organise chaque année un colloque et/ou une journée d'études donnant lieu à publication. En mai 2005, le colloque a été consacré à *la portée de l'article 3 de la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales*. Les Actes, publiés aux éditions Bruylant, paraîtront début 2006.

En 2006 auront lieu une *journée d'études sur l'enfant* (15 juin 2006) et un *colloque sur le pluralisme* (9 et 10 novembre 2006).

Centre de recherches et d'études sur les droits de l'homme et le droit humanitaire (CREDHO)

Université de Paris XI, Faculté Jean Monnet
54, Boulevard Desgranges, F-92330 Sceaux
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Le CREDHO, créé en 1990, fonctionne en réseau depuis 1995 avec deux composantes : le CREDHO-Paris Sud, et le CREDHO-Rouen.

Recherche

Le CREDHO est un centre de recherches universitaire dont les activités essentielles sont la recherche bibliographique ainsi que la recherche de type académique donnant lieu à l'organisation de colloques, dont les Actes sont publiés dans la collection du CREDHO (aux Editions Bruylant, Bruxelles, dix volumes parus). Les membres du CREDHO participent également aux activités d'enseignement en matière de droits de l'homme et de droit humanitaire, dans les universités françaises et étrangères. Le CREDHO peut aussi fournir des services de consultation dans les domaines de sa compétence.

Les projets de recherches du CREDHO s'ordonnent autour des quatre axes suivants :

– constitution de bases de données informatisées sur les droits de l'homme, les libertés publiques et le droit humanitaire ;

– aspects de la judiciarisation des droits fondamentaux en Europe ;

– mondialisation et universalité des droits de l'homme ;

– mondialisation et pénalisation du droit international.

Colloques/Tables rondes

Colloque annuel (La France et la CEDH)

La 11e session d'information du CREDHO sur la France et la Cour européenne des Droits de l'Homme (jurisprudence en 2004) s'est tenue le 25 février 2005 à la Faculté Jean Monnet à Sceaux. Un compte-rendu détaillé peut être consulté sur le site du CREDHO. Les Actes ont été publiés aux Editions Bruylant à Bruxelles, dans la collection du CREDHO (n° 9).

Table ronde (Statut de la CPI)

Le CREDHO et le Collège d'études internationales (CEI), avec la collaboration du Réseau Francophone de Droit International (RFDI) ont organisé, le 24 mars 2005, à la Faculté Jean Monnet à Sceaux, une table ronde sur « la mise en application du statut de la Cour pénale en droit interne (ratification, lois de coopération et de modification du code pénal). aspects comparatifs » Un compte-rendu détaillé figure sur le site du CREDHO.

Table ronde du CREDHO sur « la mise en application du statut de la Cour pénale en droit interne ». De gauche à droite : P. Tavernier, A. De Lucia, E. David et M. Gallie.

Publications

– Le CREDHO collabore avec le Centre de recherches sur les droits de l'homme et le droit humanitaire (Université de Paris II) et publie depuis plusieurs années, sous la direction de Paul Tavernier et Emmanuel Decaux, la *Chronique de jurisprudence de la Cour européenne des Droits de l'Homme* au Journal du droit international.

– Il coopère également, depuis de nombreuses années, avec le Centre for Human Rights de Pretoria (Afrique du Sud) pour la publication des *Human Rights Law in Africa Series* (quatre volumes parus chez Kluwer ; le volume 5 paru en 2004 [2 tomes, 1.736 pages] chez Martinus Nijhoff en constitue une version consolidée). Il a préparé la version française publiée chez Bruylant en 2002 (XXIII-1312 pages, collection du CREDHO n° 2). Le volume 2 couvrant la période 2000-2004 est sous presse (Ed. Bruylant, collection du CREDHO n° 10)

Publications régulières

– Le *Bulletin d'information du CREDHO* (14 numéros parus), contenant, notamment, une bibliographie des ouvrages, thèses et articles parus en français sur les droits de l'homme, les libertés publiques et le droit international humanitaire (parution en décembre sur papier et ultérieurement sur le site du CREDHO).

– *Liste des thèses de doctor*at sur les droits de l'homme, les libertés publiques, les droits fondamentaux et le droit humanitaire soutenues depuis 1984 dans les universités francophones (mise à jour régulièrement et disponible sur le site du CREDHO).

– *Bibliographie systématique des ouvrages et articles parus en français sur les droits de l'homme*, les libertés publiques, les droits fondamentaux et le droit humanitaire depuis 1984 (mise à jour régulièrement et disponible sur le site du CREDHO).

– *Bibliographie thématique et critique sur Islam et droits de l'homme* (mise à jour régulièrement et disponible sur le site du CREDHO).

Publications récentes

– Paul Tavernier (sous la direction de), *La France et la Cour européenne des Droits de l'Homme. La jurisprudence en 2003* (présentation, commentaires et débats) (Bruxelles : Bruylant, 2005, VIII -208 p., coll. du CREDHO n° 7).

– Laurence Burgorgue-Larsen (sous la direction de), *La France face à la Charte des droits fondamentaux de l'Union européenne* (préface de Guy Braibant) (Bruxelles : Bruylant, 2005, XIII-694 p.,coll. du CREDHO n° 8).

– Paul Tavernier (sous la direction de), *La France et la Cour européenne des Droits de l'Homme. La jurisprudence en 2004* (présentation, commentaires et débats) (Bruxelles : Bruylant, 2005, 253 p., coll. du CREDHO n° 9).

– Paul Tavernier et Emmanuel Decaux (sous la direction de), *Chronique de jurisprudence de la Cour européenne des Droits*

de l'Homme. Année 2004 (Journal du droit international (Clunet), n° 2, 2005, pp. 459-556).

– Laurence Burgorgue-Larsen (sous la direction de), *Chronique de jurisprudence européenne comparée (2004)* (Revue du droit public, n° 4, 2005, pp. 1.111-1.206).

Institut International des Droits de l'Homme

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Ressources principales

L'Institut dispose d'une bibliothèque en libre accès, ouverte à tous. Elle possède de nombreux ouvrages de référence dans le domaine du droit international et des droits de l'homme en particulier. De plus, il existe une salle de périodiques récents spécialisés dans les droits de l'homme, en plus du fonds archivé.

Enseignement

37e session annuelle d'enseignement (Strasbourg, 3-28 juillet 2006)

Les sessions annuelles de l'Institut regroupent chaque année environ trois cents participants – étudiants de niveau avancé, enseignants et chercheurs, membres de professions juridiques, fonctionnaires nationaux et internationaux, membres d'ONG – provenant d'une centaine de pays. Elles permettent une étude approfondie du droit international des droits de l'homme ainsi que du droit humanitaire et du droit pénal international, sous la direction des meilleurs spécialistes en la matière, originaires de toutes les régions du monde.

Outre les enseignements généraux, la prochaine session sera consacrée au thème « Protection internationale des droits de l'homme et droits des victimes ».

9e cours d'été sur les réfugiés (Strasbourg, 12-23 juin 2006)

Les cours d'été sont organisés en partenariat avec le Haut Commissariat des Nations Unies pour les Réfugiés. Professé uniquement en français, ce cours comprend une approche universelle, puis régionale, de la problématique de l'asile. Il adopte également une approche plus thématique du sujet en abordant les principaux thèmes de l'actualité dans ce domaine. Ce cours est destiné à un public international francophone (50 participants maximum). Il est ouvert à des personnes ayant déjà une expérience pratique et/ou théorique en la matière, qui désirent approfondir leurs connaissances ou qui, par leur cursus universitaire ou leur profession, sont susceptibles d'entrer en contact avec les réfugiés ou d'avoir une influence quant à leur protection. Il accueille des participants originaires de tous les continents et provenant de secteurs divers : fonctionnaires nationaux et internationaux, ONG, militaires, journalistes, médecins, avocats, juges, étudiants et professeurs.

Session extérieure au Sénégal

Pour la troisième année consécutive, l'Institut, en partenariat avec la Fondation Friedrich Naumann organisera à Dakar, au courant du mois de février 2006, une session d'enseignement sur les droits de l'homme. Une cinquantaine de personnes suivront des cours généraux portant principalement sur les systèmes de protection des droits de l'homme en Afrique de l'Ouest, le droit humanitaire, le droit pénal international et le droit des réfugiés, en général et dans le contexte africain.

Session extérieure en Roumanie

Pour la première fois, l'Institut va organiser, au courant de l'année 2006, conjointement avec la Faculté de droit de l'Université AI.I. Cuza de Iasi, en Roumanie, une session d'enseignement spécialisée sur les droits de l'homme. Elle permettra une étude approfondie, à la fois théorique et pratique, du droit européen des droits de l'homme, notamment en ce qui concerne la procédure devant la Cour européenne des Droits de l'Homme, le rôle des différents organes du Conseil de l'Europe intervenant dans le domaine des droits de l'homme, l'apport communautaire en matière de droits fondamentaux et la mise en perspective de la Roumanie et de son système judiciaire dans le cadre européen.

Séminaire de Prague

Les 12 et 13 juin 2006, vont avoir lieu les journées d'études sur la protection des droits fondamentaux en Europe, organisées par l'Institut en collaboration avec l'Institut d'Etat et de droit. Les conférences porteront principalement sur la réforme du système européen par le Protocole n° 14 à la Convention européenne des Droits de l'Homme (CEDH), sur l'application de la CEDH dans les ordres nationaux, sur le lien entre les Chartes fondamentales de l'Union européenne et la CEDH et, enfin, sur l'état des lieux des affaires tchèques devant la Cour de Strasbourg. Les interventions auront lieu en tchèque et en français avec une traduction simultanée dans l'autre langue.

Prix

Création du prix de thèse « Droits de l'homme » René Cassin

Ce Prix sera décerné pour la première fois en 2006. La postulation est ouverte aux candidats ayant soutenu leur thèse de doctorat au cours de l'année 2005. L'ouvrage devra être rédigé en langue française et porter sur l'un des champs disciplinaires suivants : droit international des droits de l'homme, droit régional des droits de l'homme, droit comparé des droits de l'homme et théorie juridique des droits de l'homme. L'ouvrage couronné sera publié aux éditions Bruylant dans la collection des « Publications de l'Institut international des droits de l'homme », qui prendra en charge le coût de l'édition.

Publications

Publications récentes

Les enseignements portant chaque année sur le thème spécifique de la session font l'objet d'une publication dans le cadre de la collection « Publications de l'IIDH, Institut Cassin de Strasbourg », Publications de l'IIDH, aux éditions Bruylant.

– *Les organisations non gouvernementales et le droit international des droits de l'homme*, collection « Publications de l'IIDH, Institut Cassin de Strasbourg », aux éditions Bruylant, Bruxelles, 2005, 268 p.

L'Institut publie également les actes des colloques et des journées d'études organisés par ses soins :

– G. Cohen-Jonathan et J.F. Flauss (dir.), *La réforme du système contentieux de la Convention européenne des Droits de l'Homme – Le Protocole n° 14 et les Recommandations et Résolutions du Comité des Ministres*, collection « Droit et Justice », Bruylant, Nemesis, Bruxelles, 2005, 256 p.

– G. Cohen-Jonathan et J.F. Flauss (Dir.), *Mesures conservatoires et droits fondamentaux – Actes de la Table ronde du 11 juillet 2002*, collection « Droit et justice », Bruylant, Nemesis, Bruxelles, 2005, 311 p.

– G. Cohen-Jonathan et J. F. Flauss (Dir.), *Le rayonnement international de la jurisprudence de la Cour européenne des Droits de l'Homme*, collection « Droit et justice », Bruylant, Nemesis, Bruxelles, 2005, 262 p.

Publications en cours

– Le recueil des cours thématiques de la 35e session d'enseignement annuelle de l'Institut, qui avait pour thème « *La liberté d'information en droit international* », sera disponible au printemps 2006 aux éditions Bruylant, dans la collection « Publications de l'IIDH, Institut Cassin de Strasbourg ».

– Au début de l'année 2006, paraîtra également, dans la même collection, la thèse de David Szymczak intitulée « *La Convention européenne des Droits de l'Homme et le juge constitutionnel national* ».

– Les Actes du séminaire organisé à l'Institut en décembre 2005 sur « *l'effectivité des recours internes au service de l'application de la Convention européenne des Droits de l'Homme* » seront diffusés dans la collection « Droit et justice », Bruylant, Nemesis.

Institut de formation en droits de l'homme du Barreau de Paris

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Institut pour les droits de l'homme maintenant de Formation en Droits de l'Homme du Barreau de Paris
Fondé sous le haut patronage de l'UNESCO et de l'Ordre des Avocats du Barreau de Paris
Centre Louis PETTITI

L'Institut des Droits de l'Homme du Barreau de Paris a pour activité principale la formation des avocats français et étrangers au droit international des droits de l'homme. Ses formations sont également accessibles à des juristes non avocats.

L'Institut organise des sessions de formation, avec le concours des Ecoles de formation des Barreaux, et des conférences et séminaires avec d'autres associations et universités.

Publications

Publications récentes

– Conjointement avec les Instituts des droits de l'homme de Bordeaux et Bruxelles : *Les partis liberticides et la Convention européenne des Droits de l'Homme*, Editions Bruylant 2005, « Droit et Justice » n° 62.

– En collaboration avec l'Institut des droits de l'homme des avocats européens, ouvrage collectif : *La protection du droit de propriété par la Cour européenne des Droits de l'Homme*, à paraître, Editions Bruylant.

Formations

Formations programmées

– *La Haute autorité de lutte contre les discriminations et pour l'égalité* (HALDE), Paris , Maison du Barreau, 22 février 2005.

– *Pratique du droit international des droits de l'homme*, Ecole de Formation Professionnelle des Barreaux de la Cour d'appel de Paris, 19 juin et 26 juin 2006.

MenschenRechtsZentrum

Germany

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Publications

En allemand :

***BVW-Berliner Wissenschaftsverlag*, Vol. 24-26 :**

– Andrea Kern, Christoph Menke (ed.) : Raymond Geuss : *Le bonheur et la politique, cours de Potsdam* (Glück und Politik, Potsdamer Vorlesungen).

– Eckart Klein (éd.) : *Le changement global démographique et la protection des droits de l'homme* (Globaler demographischer Wandel und Schutz der Menschenrechte).

– Dirk Lorenz : *Le champ d'application territorial des droits fondamentaux et des droits de l'homme* (Der territoriale Anwendungsbereich von Grund- und Menschenrechten – zugleich ein Beitrag zum Individualschutz in bewaffneten Konflikten).

– Georg Lohmann/Stefan Gosepath/Arnd Pollmann/Claudia Mahler/Norman Weiß : *Les droits de l'homme : indivisibles et équilibrés* ? (Die Menschenrechte: unteilbar und gleichgewichtig?).

***MenschenRechtsMagazin* (en allemand), N° 1/2005**

– Rapport sur le travail du comité des droits de l'homme des Nations Unies en 2004 – Partie I (Bericht über die Arbeit

des Menschenrechtsausschusses der Vereinten Nationen im Jahre 2004 – Teil I).

– Dates de certains organes créés par les traités de protection des droits de l'homme (Termine ausgewählter Vertragsorgane zum Menschenrechtsschutz).

– L'encouragement des droits de l'homme sociaux par des organisations non-étatiques : vue d'ensemble introductive sur les défis et mesures (Die Förderung sozialer Menschenrechte durch nicht-staatliche Organisationen: Ein einführender Überblick über Herausforderungen und Maßnahmen).

– Une « Bill of Rights » comme solution pour les violations des droits de l'homme des réfugiés ? Comparaison entre l'Australie et les Etats-Unis (Eine Bill of Rights als Lösung für Verletzungen der Menschenrechte von Flüchtlingen? Ein Vergleich zwischen Australien und den USA).

– L'Union Africaine et la Cour Africaine des droits de l'homme (Die Afrikanische Union und der Afrikanische Menschengerichtshof).

N° 2/2005

– Les droits de l'homme dans le reflet de la globalisation (Menschenrechte im Spiegel der Globalisierung).

– Entre le droit et la moralité – Une considération philosophique du statut des droits de l'homme (Zwischen Recht und Moral – Eine philosophische Betrachtung des Status von Menschenrechten).

– Rapport sur le travail du Comité des droits de l'homme des Nations Unies en 2004 – Partie II (Bericht über die Arbeit des Menschenrechtsausschusses der Vereinten Nationen im Jahre 2004 – Teil II).

– Le Traité constitutionnel de l'Union européenne et la Charte européenne des droits fondamentaux : quelles conséquences entraîne l'intégration de la Charte dans le traité constitutionnel sur la protection des droits fondamentaux en Europe ? (EU – Verfassungsvertrag und Grundrechtscharta: Welche Auswirkungen hat die Aufnahme der Grundrechtscharta in den Verfassungsvertrag auf den Grundrechtsschutz in Europa?).

Conférences

– *Le droit à la dignité* (Das Recht der Würde) Potsdam, décembre 2004.

– Conférence des Nations Unies 2005 : Les chances d'une réforme des Nations Unies, bilan du 60e anniversaire de l'Organisation mondiale (Chancen für eine Reform der Vereinten Nationen, Bilanz zum 60. Geburtstag der Weltorganisation – Konferenz des Forschungskreises Vereinte Nationen), Potsdam, juin 2005.

Cours

Série de conférences : questions choisies sur la protection des droits de l'homme (Vortragsreihe: Ausgewählte Fragen des Menschenrechtsschutzes).

German Institute for Human Rights

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Education

Human rights education is one of the priorities of the Institute. It is aimed at diverse target and age groups – both in school-based and out-of-school education, as well as in adult and vocational education. The relaunch of the Institute's home page in May 2004 was used as an opportunity to set up a service and coordination centre for human rights education. The Institute regularly hosts seminars and workshops for target groups such as teachers, police, students, social workers or academics. With the German translation of the Compass, the large handbook of the Council of Europe for human rights education, and its promotion in German speaking countries the Institute filled an important gap in Germany.

Strengthening human rights institutions

The Institute considers it to be its task to play a systematic role in the implementation of human rights standards in Germany. One example is its role in the evaluation, analysis and, above all, implementation of the Concluding Observations of the United Nations'

treaty bodies and the recommendations of the Council of Europe's committees.

The Institute is an active player in the campaign for Germany to sign and ratify the additional Protocol of the United Nations Convention against Torture.

A third example is the anti-discrimination law: Not least because of several pertinent European Union directives, the institute kept calling for the long overdue drafting of a law against discrimination in Germany.

International human rights concerns

Since 2001, the Institute follows the debate on human rights and the international fight against terrorism. It contributes with conferences and publications to the German debate. With two studies on human rights dialogues, the Institute had a closer look at options to improve the quality of official human rights dialogues, in particular with regard to measurement of its impact on the human rights situation.

Publications

– Anna Würth, Frauke Lisa Seidensticke: *Indices, Benchmarks, and Indicators: Planning and Evaluating Human Rights Dialogues*. Berlin: Deutsches Institut für Menschenrechte, 2005.

– *Jahrbuch Menschenrechte* 2006. Schwerpunkt: Freiheit in Gefahr – Strategien für die Menschenrechte. Hrsg. Deutsches Institut für Menschenrechte, Volkmar Deile, Franz-Josef Hutter, Sabine Kurtenbach, Carsten Tessmer. In Verbindung mit der deutschen Sektion von Amnesty International, dem Ludwig-Boltzmann-Institut für Menschenrechte (Wien) und dem Institut für Entwicklung und Frieden (Duisburg). Frankfurt am Main: Suhrkamp, 2005.

– Wolfgang S. Heinz, Jan-Michael Arend: *The International Fight against Terrorism and the Protection of Human Rights*. Berlin: Deutsches Institut für Menschenrechte, 2005.

– Frauke Lisa Seidensticker: *Examination of State Reporting by Human Rights Treaty Bodies: An Example for Follow-Up at the National Level by National Human Rights Institutions*. Berlin: Deutsches Institut für Menschenrechte, 2005.

– *Kompass. Handbuch zur Menschenrechtsbildung für die schulische und außerschulische Bildungsarbeit*/Council of Europe. Autorinnen und Autoren Patricia Brander u.a., Hrsg. für die deutsche Ausgabe: Deutsches Institut für Menschenrechte. Übersetzung: Marion Schweizer. Redaktion: Anne Thiemann. Bonn/Berlin: Bundeszentrale für politische Bildung/Deutsches Institut für Menschenrechte, 2005.

– *Die "General Comments" zu den VN-Menschenrechtsverträgen. Deutsche Übersetzung und Kurzeinführungen.* Hrsg.: Deutsches Institut für Menschenrechte. Baden-Baden: Nomos Verlag, 2005.

The Icelandic Human Rights Center

Iceland

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Conferences/Seminars/Lectures

In 2005 the Centre held conferences and seminars on the following topics:

– Human rights provisions in the Icelandic Constitution;

– Refugee rights;

– Domestic violence;

– Women's human rights and the right to health;

– Violence against women, the need for legal reform;

– National human rights institutions;

– Peace movements in the Occupied Territories in Palestine;

– The role of non-governmental organisations in promoting human rights.

Topics of forthcoming seminars, courses and conferences in 2006 include:

– The meaning of human rights;

– Human rights and business;

– Justiciability of economic, social and cultural rights;

– The role of private actors in promoting human rights;
– Due diligence and violence against women;
– The report of the Council of Europe Commissioner for Human Rights on Iceland;
– The role of national human rights institutions in human rights promotion;
– Art and human rights;
– Gender and human rights.

Campaigns

Campaign to combat violence against women

The Centre works actively to promote an action-plan to combat gender-based violence in Iceland base on a draft formulated at the Centre in 2004. In 2005 the Centre participated in the 16 Days of Activism against Gender Violence campaign and held a seminar on women's human rights and health in connection with that campaign and raised the issue of domestic abuse in the media.

Campaign to promote the rights of asylum seekers

The Centre works actively in promoting due process in asylum cases and rights of asylum seekers in general. The Centre participates in visits to Iceland's reception centre.

Media campaigns

The Centre works actively to promote human rights issues in the media. The most prominent issues in 2005 were violence against women, immigration, refugee rights and asylum and funding for human rights work, as the Government drastically cut the Centre's funding.

Publications

The Icelandic Human Rights Centre publishes a *human rights reports series* on various topics.

In 2005 work continued on a forthcoming report on the participation of the Icelandic Government in international human rights promotion, a report on human rights in Icelandic development co-operation projects and a compilation of decisions of international human rights bodies on human rights.

The Centre contributes to the *Human Rights Education Project*, published by the UN University for Peace with support from the Government of the Netherlands. The Project consists of three books and a CD-ROM: The Human Rights Reference Handbook, Universal and Regional Human Rights Protection: Cases and Commentaries, Human Rights Instruments and Human Rights Ideas, Concepts and Fora. The materials have been distributed world-wide. Currently, the Centre, with assistance from Masters students at the University for Peace is charged with developing a human rights portal where materials from the Human Rights Education Project are made accessible on the Internet. The Centre is also developing a web portal Human Rights in Iceland where materials on human rights in Iceland are made easily accessible.

Italy

Interdepartmental Centre on Human Rights and the Rights of Peoples (Centro interdipartimentale di ricerca e servizi sui diritti della persona et del popoli)

University of Padua, Via Anghinoni 3, I-35121 Padova
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The Centre offers the following services: library, student assistance, newsletter, students' computer room.

Academic programmes

The Centre is fully involved in the organisation of the new degree courses at the Faculty of Political Science, University of Padua. In particular, the three-year Course on Political Science and International Relations – Human Rights and the new post-graduate Course on Institutions and Politics of Human Rights and Peace.

European Master's Degree in Human Rights and Democratisation (EMA)

This multidisciplinary and intensive one-year academic programme reflects the indivisible links between human rights, democracy, peace and development.

It aims principally to train high-level professionals in the field of human rights and democratisation qualified to work as academics, staff members or field workers for inter-governmental, governmental, and non-governmental organisations; to provide its graduates with practical work experience; and to create a European network of curriculum development and staff exchange among universities in the field of human rights and democratisation.

Award/Inauguration Ceremony of the European Master's Degree in Human Rights and Democratisation, Palazzo Ducale, Venice.

Courses on Human Rights

– The 17th annual *post-graduate course on Human Rights and the Rights of Peoples* (2005-2006) is organised with the cooperation of the Italian Red Cross and the Region of Veneto and will be devoted to "Human Rights, International and Humanitarian Law and Humanitarian Action in Emergency Situations".

– The first course on *"Human Rights and Disability. Protection Instruments in National and International Institutions"* will be organised in the academic year 2005-2006 together with Disabled Peoples' International, Italian Federation for Disability overcoming and the National Council on Disability with the support of the Region of Veneto.

National Programme in Educational Training

The fifth advanced intensive course for teachers of the Region of Veneto on "Education on citizenship and solidarity: human rights and peace culture" will be carried out from December 2005 to March 2006 in co-operation with the UNESCO Chair and the Ministry of Education and the Region of Veneto.

Other activities

NGO database

In the framework of the Regional "Peace Human Rights Archive", the Centre update a comprehensive NGO database collecting all data, contacts, description and activities of any NGO in the Veneto Region dealing with human rights, co-operation and development. All records can be consulted on the web site of the Centre.

The Centre will carry out *two EU Projects*:

– Daphne II – the project is on "Human Rights and Trafficking in Women and Young People. An educational toolkit for teachers and students".

– Support for setting up of Transnational Research Groups organised by the academic world: Jean Monnet Chairs, National ECSA Associations and Jean Monnet Centres of Excellence – the project is on "The role of intercultural

dialogue for the development of a new (plural, democratic) citizenship".

University students take part in a UN Security Council simulation organised by the Centre.

Conferences/Seminars

The Centre organises several seminars and conferences on Peace, UN Reform, EU constitution and integration, Inter-cultural dialogue, disarmament, children's rights, trafficking, etc.

Publications

– Quaderno 12. Paola Degani, Politiche di genere e Nazioni Unite. Il sistema internazionale di promozione e protezione dei diritti umani delle donne, Cleup, 2005.

– Quaderno 11. Diritti umani, cittadinanza europea e dialogo interculturale. Esperienze e lavori delle scuole del Veneto, A.S. 2003/2004, Cleup, 2005.

– Quaderno 10. Paolo De Stefani, Annalisa Buttici (a cura di), Migranti minori. Percorsi di riconoscimento e garanzia dei diritti dei minori stranieri non accompagnati nel Veneto, Cleup, 2005.

– Quaderno 9. Paolo De Stefani (a cura di), A scuola con i diritti dei bambini. Esperienze di educazione ai diritti umani promossi dal Pubblico Tutore dei Minori del Veneto, Dicembre 2004.

– Quaderno 8. La politica della Regione del Veneto per la pace i diritti umani e la cooperazione allo sviluppo, Dicembre 2004.

– Quaderno 7. Paolo De Stefani (a cura di), Raccolta di strumenti internazionali sui diritti umani, Seconda edizione, Luglio 2004.

– Quaderno 6. Lucio Strumendo e Paolo De Stefani (a cura di), I Diritti del bambino tra protezione e garanzie. La ratifica della Convenzione di Strasburgo sull'esercizio dei diritti dei fanciulli, Aprile 2004.

– Tascabile n. 3, La difesa civica in Italia: le leggi regionali.

– Tascabile n. 4, Pace, diritti umani e cooperazione decentrata in Italia: le leggi regionali.

– *The Bulletin Archivio Pace Diritti Umani (Peace Human Rights Archive)* is published every six months.

– The quarterly *Pace diritti umani (Peace Human Rights)* continues the publication with the active support of the Region of Veneto and is published by Marsilio, Venice.

Luxembourg

Institut luxembourgeois des droits de l'homme

Université du Luxembourg
162a, avenue de la Faïencerie, L-1511 Luxembourg

Publications

L'Institut assure la parution du *Bulletin des droits de l'homme*.

Au sommaire des n^{os} 11 et 12 :

Des *articles* sur les thèmes suivants :

– Immunités de la juridiction civile et Convention européenne des Droits de l'Homme (Benedetto Conforti).

– L'abolition de la peine de mort et la jurisprudence des organes de la Cour européenne des Droits de l'Homme (Caroline Ravaud).

– Le traitement psychiatrique face aux abus et à l'exclusion : l'approche juridique européenne (Thomais Douraki).

– Cinquantenaire de la Convention européenne des Droits de l'Homme : bilan et perspective (Ibrahim Ö. Kaboglu. Allocution présentée au Congrès sur les droits de l'homme, Istanbul, 17-19 mai 2005).

– La place et l'avenir de la Convention européenne des Droits de l'Homme (Luzius Wildhaber).

– "Right to life" (Article 2 ECHR) (Türmen Riza).

– Le droit à la liberté et à la sûreté (article 5 CEDH) (Françoise Tulkens).

– Le droit à un procès équitable (article 6 CEDH) (Josep Casadevall).

– "Religious advertising and the European Convention on Human Rights" (John Hedigan).

– "The scope and limits of freedom of expression" (Article 10 ECHR) (Rait Maruste).

– Interprétation de l'article 14 de la Convention européenne des Droits de l'Homme par la Cour européenne des Droits de l'Homme (Nina Vajic).

– "The European Convention on Human Rights as a living instrument" (Paul Mahoney).

– L'évolution des droits de l'homme et de la démocratie en Turquie depuis un demi-siècle (Ibrahim Ö. Kaboglu).

De la *jurisprudence* :

Jurisprudence luxembourgeoise relative à la Convention européenne des Droits de l'Homme et à d'autres traités en matière de droits fondamentaux (Luc Weitzel).

De la *documentation* :

Arrêts rendus par la Cour européenne des Droits de l'Homme contre le Luxembourg.

Norwegian Centre for Human Rights

Norway

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Internet: www.humanrights.uio.no

Publications

– Peris Jones: *On a never ending waiting list: Towards equitable access to anti-retroviral treatment? Experiences from Zambia*. Health and Human Rights, Vol. 8 No. 2, pp. 76-102. (ISSN 1079-0969). Winter 2005.

– Njål Høstmalingen: *Constitutional consequences of a separation between church and state*. Church and Culture, Vol. 100 (1), 2005, pp. 21-36.

– Njål Høstmalingen*: Too strong influence on faith: Norwegian Christianity teaching in conflict with human rights*. Norwegian theological Journal, Vol. 106 (4), 2005, pp. 232-252

– Andreas Føllesdal: *Religious liberty versus Gender Equality*. Journal of Social Philosophy, Vol. 36, No. 4, Winter 2005, pp. 407-420

– Peris Jones and Kristian Stokke (eds.) (2005c): *Democratising Development: The Politics of Socio-Economic Rights in South Africa* (Martinus Nijhoff: Leiden).

– *UN convention on the rights of the child – from vision to municipal reality*. Oslo, Norwegian Centre for Human Rights, 2005.

Publications from the Institute's staff regarding human rights are also available in the *Nordic Journal for Human Rights*.

A *yearbook about human rights in Norway for 2005* will be published early in 2006.

Library

The NCHR library holds an extensive up-to-date collection of human rights literature, open to the public.

Poland

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The Centre was created with a view to conduct research and to train experts as well as to promote knowledge in the field of human rights. Currently, one of its objectives focuses on the combined protection offered by national constitutional rights and internationally recognised rights, in particular the application of international standards within the national legal order.

Research

Research activities comprise of the broadly understood problems of human rights on the levels of international law, comparative law and Polish law. Research on international and comparative law serves as the basis for determining criteria and standards for the evaluation of the Polish law and methods of its implementation. Conducted research focuses first of all on personal and political rights and freedoms, constitutional regulations of the judiciary, legal regulations of protection of national and ethnic minorities, rights of refugees, etc. Recently the Centre broadened its research activities by covering problems relating to protection of fundamental rights within the European Union.

Education

The Poznań Human Rights Centre has organised a number of *scientific conferences and seminars*. Emphasis has been put on organising seminars and training attended by the judges, lawyers, young researches, members of NGOs, senior students.

Since September 1992 each year the Centre organises a *ten-day Course on International Protection of Human Rights*. The Course is conducted in English by eminent foreign and Polish scholars and human rights activists. Since 2000 the Course has been organised in co-operation with the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, University of Lund, Sweden.

The Centre performs functions of the National Co-ordinating University in the framework of the European Master's Programme in Human Rights and Democratisation (EMA).

Documentation

The library acts as a Depository Library of the Council of Europe. Apart from a collection of books, the library has a selection of periodicals on human rights and a great choice of domestic documents. It also has a collection of UN documents at its disposal.

Portugal

Bureau de Documentation et de Droit comparé de l'Office du Procureur-Général de la République (Gabinete de Documentaçao e Direito Comparado Procuradoria Geral da Républica)

Rua do Vale do Pereiro 2, P-1269-113 Lisboa
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Internet : www.gddc.pt

Le Bureau est une entité créée sous la dépendance de l'Office du Procureur Général de la République, spécialisée en droit international et plus particulièrement dans le domaine des droits de l'homme. Parmi ses missions : le traite-

ment de l'information disponible en droit international, l'appui – en termes d'expertise et d'information – à toute entité nationale ou étrangère qui le sollicite.

Entre autres activités dans ce domaine, le Bureau diffuse des publications, qu'il traduit dans plusieurs langues étrangères, et développe une très importante bibliothèque juridique.

Il déploie de nombreuses activités dans le but d'assurer la pleine utilisation de systèmes informatiques par des juristes (accès à des banques de données propres, création de pages sur internet, développement d'applications de bureautique).

Documentation

Son site Internet contient une quantité considérable d'informations, dans plusieurs langues, notamment sur l'histoire, le fonctionnement et les textes des organismes internationaux, des publications destinées au jeune public portugais, des versions de certains documents en Braille, des fiches d'information sur les droits de l'homme, des textes de doctrine.

Le Bureau accorde, depuis 2003-2004, des stages collectifs (séances d'approche aux droits de l'homme pour étudiants en fin de formation universitaire) ou individuels (engagement au Bureau, sans rémunération, pendant quelques mois, de jeunes ayant terminé leur cursus universitaire). Les demandes sont à adresser à M[me] la Directrice du Bureau, à l'adresse mentionnée ci-dessus.

Stages

Institut roumain pour les droits de l'homme (IRDO)

Romania

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L'IRDO met à la disposition du public un centre de documentation en matière de droits de l'homme, contenant : les textes des conventions internationales, des lois, des documents, études et publications, des références bibliographiques et autres. Il est également dépositaire des documents du Conseil de l'Europe dans les domaines de l'éducation, de la culture, de l'écologie et des sciences politiques.

Information et documentation

Parmi les activités didactiques et de formation, on relèvera plus particulièrement l'organisation de programmes de formation, destinés surtout aux personnes ayant des responsabilités particulières quant à la protection des droits de l'homme : magistrats, policiers, enseignants, professionnels du domaine de l'assistance sociale, de l'administration publique etc.

Formation

Au cours de l'année 2005, ont, notamment, été organisés, en partenariat avec divers organismes :

– la XI[e] édition de l'Université Internationale des droits de l'homme sur le thème : « L'alignement des institutions et instruments roumains de protection et promotion des droits de l'homme aux exigences de l'intégration à l'Union européenne » ;

– un Symposium national sur le thème « L'éducation à la bioéthique et les droits de l'homme » ;

– un Symposium sur le thème : « Les droits de l'homme pour tous – développement, sécurité, tolérance, paix », consacré au 60[e] anniversaire de l'ONU ;

– un cours de formation sur le thème : « Les droits de l'homme et l'autorité des forces de l'ordre public », organisé à l'intention du personnel des forces de l'ordre public du Ministère de l'Administration et de l'Intérieur.

Cours/Séminaires

– *Revue des Droits de l'Homme* (*Drepturile Omului*): publication trimestrielle, diffusée à titre gratuit, contenant : le texte des conventions internationales, lois,

Publications

documents et autres réglementations internationales relatives aux droits de l'homme ; les études réalisées par l'Institut ainsi que des études à caractère international ; du matériel bibliographique ; des études de droit comparé ; des enquêtes, tables-rondes, opinions de personnalités roumaines ou étrangères, ainsi que les opinions de professionnels ayant été confrontés, dans la pratique, à des problèmes en matière de droits de l'homme ; des comptes-rendus des activités des institutions gouvernementales ayant pour objet les droits de l'homme.

– *Info-IRDO* : Bulletin d'information mensuel.

– *Les droits de l'enfant et des jeunes – Les instruments nationaux* (3e éd., révisée et augmentée).

– *La jurisprudence de la Cour européenne des Droits de l'Homme*, Ve éd., traduite en roumain, correspondant a la IXe édition en français.

– *Rapport sur l'évolution de la protection et de la promotion des droits de l'homme en 2004*.

– *Droit institutionnel communautaire et des droits de l'homme*.

– *Ferestre spre societate. Selectie de lucrări artistice prezentate la etapele naționale ale Concursului « Democrație si tolerantă », 1995-2004* (Fenêtres vers la société – Sélection d'œuvres artistiques présentées aux étapes nationales du Concours « Démocratie et Tolérance »).

– *Drept internațional al drepturilor omului si problematica minorităților nationale* (Le Droit international des droits de l'homme et la problématique des minorités nationales).

– *De la jurisprudence de la Cour européenne des Droits de l'Homme – Affaires concernant la Roumanie.*

Spain

Human Rights Institute of Catalonia (IDHC)

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Education

Annual course of human rights

This course has been organised every year since 1983. The next edition will take place from 6 to 23 March 2006.

It is aimed at students of legal, economic and social sciences, administration officials, bodies and safety forces, jurists, social workers, economists and all those professionals related to this matter.

The conferences are given by teachers of recognised national and international prestige.

Scholarships:

Among the participants in the Annual Course of Human Rights who write a paper about the protection of HR, the IDHC awards different kinds of scholarship: internships and visits to the Office of the United Nations High Commissioner of Human Rights, in Geneva; to the Council of Europe and the European Court of Human Rights, in Strasbourg; to the Office of the Ombudsman of Catalonia, in Barcelona; to the Office of IDHC in Barcelona, through the European program Leonardo.

Courses and seminars

In 2005 a course was organised on "Education in Human Rights for Latin-American judges" – during which the Federation of Associations of Judges for the Democracy in Latin America and Caribbean was created.

More than thirty Latin-American judges took part in the course on Education in Human Rights organised by the IDHC.

In November 2005 a seminar was held on the "Charter of Emerging Human Rights: Towards a Basic Income of Citizenship". The charter, a text born from the international civil society in 2004, crystallises the challenges facing the system for the protection of human rights in the 21st century.

First seminar in a series on the Charter of Emerging Human Rights.

Charter of emerging human rights

The text is a programmatic instrument of the international civil society called to be adopted by state bodies and other institutional forums, which seeks to define human rights in the 21st century, and to face the new challenges of our globalised world.

Publications

Civil concord in Euskadi

This book gathers together different articles and speeches of the authors invited by the IDHC and by the Civil Forum for Dialogue. The aim of the project was the analysis and diagnosis of the Basque situation. The authors formulated proposals to promote a scenario of freedom and coexistence for all the Basque citizens, in which the human rights should be the key of the institutional system.

Library

Bibliographical resources

The IDHC holds in its head office a vast library on human rights. More than 1 000 monographs, several collections of specialised magazines and publications of international organisations and other institutions that work for the defence, study and promotion of human rights comprise the IDHC's bibliographical resources.

On-line resources

On the IDHC Web site the on-line library counts with a selection of sources about human rights and basic legislative documentation available on-line.

The Stockholm Institute of Public and International Law (Institutet für Offentlig och Internationell Rätt)

Sweden

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The Institute runs courses in European human rights law on demand, publishes books and undertakes studies. It has a library specialised in the European Convention on Human Rights.

Since 1984 the Institute has organised the *Sporrong Lönnroth Moot Court Competition*.It conducts this course in human rights law and, in particular, the European Convention on Human Rights. The course is organised as a moot court competition and covers selected problems, preferably two to four, which allow for in-depth studies. The competing teams of law students represent universities from Nordic countries.

Teams, judges and organisers of the 2005 Sporrong Lönnroth Moot Court Competition.

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**	**Protocol No. 14**	**European Social Charter**	**European Social Charter (Revised)**	**CPT** European Convention for the Prevention of Torture	**Framework Conv. for the Protection of National Minorities**	**Convention on Action against Trafficking in Human Beings**
Albania	02.10.96	02.10.96	02.10.96	21.09.00	02.10.96	26.11.04				14.11.02	02.10.96	28.09.99	
Andorra	22.01.96			22.01.96			26.03.03			12.11.04	06.01.97		
Armenia	26.04.02	26.04.02	26.04.02	29.09.03	26.04.02	17.12.04		07.01.05		21.01.04	18.06.02	20.07.98	
Austria	03.09.58	03.09.58	18.09.69	05.01.84	14.05.86		12.01.04		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					02.09.04	15.04.02	26.06.00	
Belgium	14.06.55	14.06.55	21.09.70	10.12.98			23.06.03		16.10.90	02.03.04	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	
Bulgaria	07.09.92	07.09.92	04.11.00	29.09.99	04.11.00		13.02.03	17.11.05		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	17.11.05	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		02.07.04		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	10.11.04	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		25.02.04			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	17.12.04	29.11.04		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	10.11.04		**22.08.05**	20.06.00		
Germany	05.12.52	13.02.57	01.06.68	05.07.89			11.10.04		27.01.65		21.02.90	10.09.97	
Greece	28.11.74	28.11.74		08.09.98	29.10.87		01.02.05	**05.08.05**	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		10.11.04	16.05.05	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	10.11.04	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	06.06.05	
Liechtenstein	08.09.82	14.11.95	08.02.05	15.11.90	08.02.05		05.12.02	**07.09.05**			12.09.91	18.11.97	
Lithuania	20.06.95	24.05.96	20.06.95	08.07.99	20.06.95		29.01.04	**01.07.05**		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	04.10.04	04.10.88	**27.07.05**	07.03.88	10.02.98	
Moldova	12.09.97	12.09.97	12.09.97	12.09.97	12.09.97			**22.08.05**		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**	**Protocol No. 14**	**European Social Charter**	**European Social Charter (Revised)**	**CPT** European Convention for the Prevention of Torture	**Framework Conv. for the Protection of National Minorities**	**Convention on Action against Trafficking in Human Beings**
Monaco	30.11.05		30.11.05	30.11.05	30.11.05		30.11.05				30.11.05		
Netherlands	31.08.54	31.08.54	23.06.82	25.04.86		28.07.04			22.04.80		12.10.88	16.02.05	
Norway	15.01.52	18.12.52	12.06.64	25.10.88	25.10.88		**16.08.05**	10.11.04	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	20.12.04		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	16.05.05		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	03.03.04	03.03.04	03.03.04	03.03.04	03.03.04	03.03.04	03.03.04	**06.09.05**			03.03.04	11.05.01	
Slovakia	18.03.92	18.03.92	18.03.92	18.03.92	18.03.92		**18.08.05**	16.05.05	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		04.12.03	29.06.05		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	17.11.05	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	13.07.04	13.07.04	15.06.05	31.03.05		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	28.01.05	11.07.62		24.06.88	15.01.98	

Updated: 12.12.05
Ratifications between **01.07.05** and **31.10.05** are highlighted

Full information on the state of signatures and ratifications of Council of Europe conventions can be found on the Treaty Office's Internet site: http://conventions.coe.int/

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