

2000



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# **HUMAN RIGHTS INFORMATION BULLETIN**

## **No. 49**

March-June 2000

Directorate General of Human Rights  
September 2000



# Human rights information bulletin

## No. 49

*an update on human rights activities  
within the Council of Europe*

**March-June 2000**

Directorate General of Human Rights

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## The structure of the Council of Europe

The Council of Europe is a political organisation which was founded on 5 May 1949 by ten European states in order to promote greater unity between its members. It now numbers 41 member states: Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

The main aims of the Organisation are to reinforce democracy at all levels of government, human rights and the rule of law, to strengthen social cohesion and to promote awareness of a shared European identity with due regard for cultural diversity. Its work has led, to date, to the adoption of over 170 European conventions and agreements, including the European Convention on Human Rights, the European Cultural Convention, the European Social Charter and the European Convention against Torture. Several “partial agreements” enable a limited number of states which so wish to co-operate in a specific field, such as the quality of medicines, constitutional law or promotion of European cinematographic co-production. Since 1989 the Council of Europe has integrated most of the countries of central and eastern Europe and supported them in their efforts to implement and consolidate their political, legal and administrative reforms.

The Council of Europe has its permanent headquarters in Strasbourg (France). It operates through a variety of bodies:

- The governing body is the **Committee of Ministers**, composed of the Ministers of Foreign Affairs of the 41 member states or, on a daily basis, their permanent representatives in Strasbourg.
- The other statutory organ is the **Parliamentary Assembly**, comprising 582 members from the 41 national parliaments, as well as special guests from certain European non-member states.
- The **Congress of Local and Regional Authorities of Europe**, also composed of 582 members, represents the entities of local and regional self-government within the member states.
- The **European Court of Human Rights**, comprising a resident judge from each contracting Party, is the judicial body competent to adjudicate complaints brought against a state by individuals, associations or other contracting states on grounds of violation of the European Convention on Human Rights.

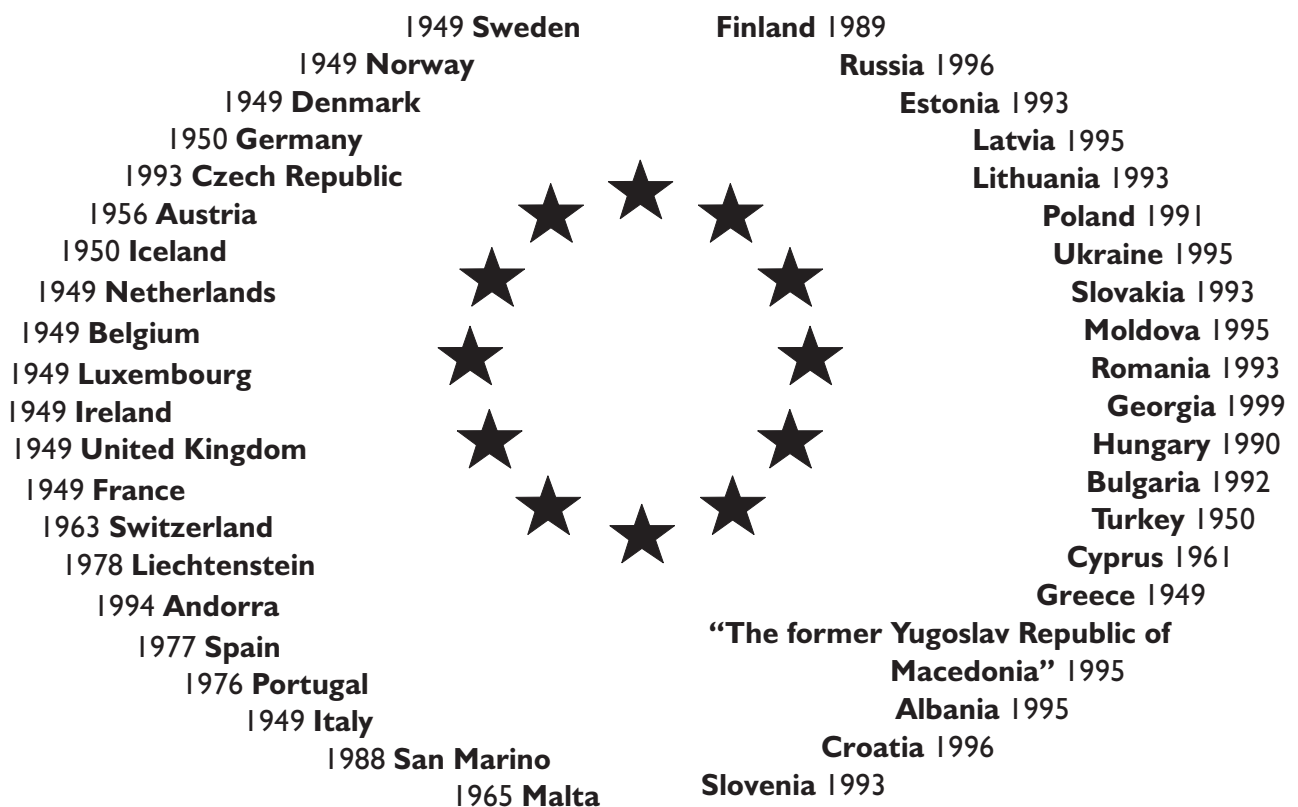
These bodies and the many intergovernmental committees are served by a multinational European Secretariat under the authority of a Secretary General elected by the Parliamentary Assembly for a term of five years.





# Member states of the Council of Europe at 30 June 2000

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# 1. Convention activities

## A. European Convention on Human Rights

### 1. State of signatures and ratifications of the Convention and its protocols at 30 June 2000

Member states	ECHR		Protocol No. 1		Protocol No. 4		Protocol No. 6		Protocol No. 7	
	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified
<b>Albania</b>	13/07/95	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96	04/04/00	—	02/10/96	02/10/96
<b>Andorra</b>	10/11/94	22/01/96	—	—	—	—	22/01/96	22/01/96	—	—
<b>Austria</b>	13/12/57	03/09/58	13/12/57	03/09/58	16/09/63	18/09/69	28/04/83	05/01/84	19/03/85	14/05/86
<b>Belgium</b>	07/05/92	07/09/92	07/05/92	07/09/92	03/11/93	—	28/04/83	10/12/98	03/11/93	—
<b>Bulgaria</b>	07/05/92	07/09/92	07/05/92	07/09/92	03/11/93	—	07/05/99	29/09/99	03/11/93	—
<b>Croatia</b>	06/11/96	05/11/97	06/11/96	05/11/97	06/11/96	05/11/97	06/11/96	05/11/97	06/11/96	05/11/97
<b>Cyprus</b>	16/12/61	06/10/62	16/12/61	06/10/62	06/10/88	03/10/89	07/05/99	19/01/00	02/12/99	—
<b>Czech Republic*</b>	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92
<b>Denmark</b>	04/11/50	13/04/53	20/03/52	13/04/53	16/09/63	30/09/64	28/04/83	01/12/83	22/11/84	18/08/88
<b>Estonia</b>	14/05/93	16/04/96	14/05/93	16/04/96	14/05/93	16/04/96	14/05/93	17/04/98	14/05/93	16/04/96
<b>Finland</b>	05/05/89	10/05/90	05/05/89	10/05/90	05/05/89	10/05/90	05/05/89	10/05/90	05/05/89	10/05/90
<b>France</b>	04/11/50	03/05/74	20/03/52	03/05/74	22/10/73	03/05/74	28/04/83	17/02/86	22/11/84	17/02/86
<b>Georgia</b>	27/04/99	20/05/99	17/06/99	—	17/06/99	13/04/00	17/06/99	13/04/00	17/06/99	13/04/00
<b>Germany</b>	04/11/50	05/12/52	20/03/52	13/02/57	16/09/63	01/06/68	28/04/83	05/07/89	19/03/85	—
<b>Greece</b>	28/11/50	28/11/74	20/03/52	28/11/74	—	—	02/05/83	08/09/98	22/11/84	29/10/87
<b>Hungary</b>	06/11/90	05/11/92	06/11/90	05/11/92	06/11/90	05/11/92	06/11/90	05/11/92	06/11/90	05/11/92
<b>Iceland</b>	04/11/50	29/06/53	20/03/52	29/06/53	16/11/67	16/11/67	24/04/85	22/05/87	19/03/85	22/05/87
<b>Ireland</b>	04/11/50	25/02/53	20/03/52	25/02/53	16/09/63	29/10/68	24/06/94	24/06/94	11/12/84	—
<b>Italy</b>	04/11/50	26/10/55	20/03/52	26/10/55	16/09/63	27/05/82	21/10/83	29/12/88	22/11/84	07/11/91
<b>Latvia</b>	10/02/95	27/06/97	21/03/97	27/06/97	21/03/97	27/06/97	26/06/98	07/05/99	21/03/97	27/06/97
<b>Liechtenstein</b>	23/11/78	08/09/82	07/05/87	14/11/95	—	—	15/11/90	15/11/90	—	—
<b>Lithuania</b>	14/05/93	20/06/95	14/05/93	24/05/96	14/05/93	20/06/95	18/01/99	08/07/99	14/05/93	20/06/95
<b>Luxembourg</b>	04/11/50	03/09/53	20/03/52	03/09/53	16/09/63	02/05/68	28/04/83	19/02/85	22/11/84	19/04/89
<b>Malta</b>	12/12/66	23/01/67	12/12/66	23/01/67	—	—	26/03/91	26/03/91	—	—
<b>Moldova</b>	13/07/95	12/09/97	02/05/96	12/09/97	02/05/96	12/09/97	02/05/96	12/09/97	02/05/96	12/09/97
<b>Netherlands</b>	04/11/50	31/08/54	20/03/52	31/08/54	15/11/63	23/06/82	28/04/83	25/04/86	22/11/84	—
<b>Norway</b>	04/11/50	15/01/52	20/03/52	18/12/52	16/09/63	12/06/64	28/04/83	25/10/88	22/11/84	25/10/88
<b>Poland</b>	26/11/91	19/01/93	14/09/92	10/10/94	14/09/92	10/10/94	18/11/99	—	14/09/92	—
<b>Portugal</b>	22/09/76	09/11/78	22/09/76	09/11/78	27/04/78	09/11/78	28/04/83	02/10/86	22/11/84	—
<b>Romania</b>	07/10/93	20/06/94	04/11/93	20/06/94	04/11/93	20/06/94	15/12/93	20/06/94	04/11/93	20/06/94
<b>Russia</b>	28/02/96	05/05/98	28/02/96	05/05/98	28/02/96	05/05/98	16/04/97	—	28/02/96	05/05/98
<b>San Marino</b>	16/11/88	22/03/89	01/03/89	22/03/89	01/03/89	22/03/89	01/03/89	22/03/89	01/03/89	22/03/89
<b>Slovakia*</b>	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92	21/02/91	18/03/92
<b>Slovenia</b>	14/05/93	28/06/94	14/05/93	28/06/94	14/05/93	28/06/94	14/05/93	28/06/94	14/05/93	28/06/94
<b>Spain</b>	24/11/77	04/10/79	23/02/78	27/11/90	23/02/78	—	28/04/83	14/01/85	22/11/84	—
<b>Sweden</b>	28/11/50	04/02/52	20/03/52	22/06/53	16/09/63	13/06/64	28/04/83	09/02/84	22/11/84	08/11/85
<b>Switzerland</b>	21/12/72	28/11/74	19/05/76	—	—	—	28/04/83	13/10/87	28/02/86	24/02/88
<b>“The former Yugoslav Republic of Macedonia”</b>	09/11/95	10/04/97	14/06/96	10/04/97	14/06/96	10/04/97	14/06/96	10/04/97	14/06/96	10/04/97
<b>Turkey</b>	04/11/50	18/05/54	20/03/52	18/05/54	19/10/92	—	—	—	14/03/85	—
<b>Ukraine</b>	09/11/95	11/09/97	19/12/96	11/09/97	19/12/96	11/09/97	05/05/97	04/04/00	19/12/96	11/09/97
<b>United Kingdom</b>	04/11/50	08/03/51	20/03/52	03/11/52	16/09/63	—	27/01/99	20/05/99	—	—

\* The dates of signature and ratification given for the Czech Republic and Slovakia are those, respectively, of the signature and ratification by the Czech and Slovak Federal Republic, by which the former two states consider themselves bound.

Updates to the table of signatures and ratifications are available on the Internet at the site: <http://conventions.coe.int/>.

## 2. Reservations and declarations

### European Convention on Human Rights

#### Hungary

*Letter from the Permanent Delegation of Hungary dated 14 March 2000, registered at the Secretariat General on 17 March 2000 – Or. Eng.*

The National Assembly of the Republic of Hungary, by its law No. CXX/1999, paragraph 44, subparagraph 1, point c has withdrawn – beginning with the 1st March 2000 – the reservation by Hungary made to the Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) done at Rome, 4 November 1950.

#### *Text of the reservation thus withdrawn:*

In accordance with Article 64 of the Convention [Article 57 since the entry into force of the Protocol No. 11], the Republic of Hungary makes the following reservation in respect of the right to access to courts guaranteed by Article 6, paragraph 1, of the Convention:

For the time being in proceedings for regulatory offences before the administrative authorities, Hungary cannot guarantee the right to access to courts, because the current Hungarian laws do not provide such a right, the decision of the administrative authorities being final.

The relevant provisions of the Hungarian law referred to above are:

- Section 4 of Act IV of 1972 on courts, modified several times, which provides that the courts, unless an Act stipulates otherwise, may review the legality of the decisions taken by the administrative authorities.
- An exception is contained in Section 71/A of Act I of 1968 on proceedings for regulatory offences, modified several times, which allows for the offender to request judicial review solely against the measures taken by the administrative authority to commute to confinements the fine the offender had been sentenced to pay; no other access to court against final decisions taken in proceedings for regulatory offences is permitted.

### Protocol No. 6

#### Ukraine

*Communication contained in a letter from the Permanent Representative of Ukraine, dated 29 June 2000, registered at the Secretariat General on 30 June 2000 – Or. Eng.*

On 29 December 1999, the Constitutional Court of Ukraine ruled that the provisions of the Criminal Code of Ukraine which provided for death penalty were unconstitutional. According to the Law of Ukraine of 22 February 2000 “On the Introduction of Amendments to the Criminal, Criminal Procedure and Correctional

Labour Codes of Ukraine”, the Criminal Code of Ukraine has been brought into conformity with the above-mentioned ruling of the Constitutional Court of Ukraine. The death penalty was replaced by life imprisonment (Article 25 of the Criminal Code of Ukraine). The Law of Ukraine “On the ratification of Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the Death Penalty, of 1983” envisages retaining of application of the death penalty for offences committed in time of war by means of introduction of appropriate amendments to the legislation in force.

Pursuant to Article 2 of the Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Ukraine will notify the Secretary General of the Council of Europe in case of introduction of these amendments.

## 3. Inquiries by the Secretary General

In accordance with the powers conferred on him by Article 52 of the Convention, on 13 December 1999 the Secretary General sent to the Government of the Russian Federation a letter asking for an explanation of how the Convention was applied in Chechnya, and on the likelihood of violations that might result. This letter gave rise to an exchange of correspondence (dating from December 1999 until March 2000) with Mr Ivanov, foreign minister of the Russian Federation; and also to a memorandum by the delegation of the Federal Assembly of the Russian Federation to the Parliamentary Assembly of the Council of Europe concerning the implementation of Recommendation 1444 (27 January 2000), on the conflict in the Chechen republic (SG/Inf (2000) 21 and addendum).

The report of the Secretary General concludes that the affirmations of a general nature contained in Mr Ivanov’s replies cannot be considered as satisfactory “explanations” for the purposes of Article 52. The Secretary General therefore decided to transmit the report to the Committee of Ministers and to the Parliamentary Assembly and requested an analysis by a group of experts of the exchange of letters he had had with the Russian Federation.

The group of experts, in its consolidated report (SG/Inf (2000) 24 and addendum), concluded that the Russian Federation had failed in its legal obligations as a Contracting State under Article 52.

*The Secretary General’s report, with its appended exchange of correspondence, and the consolidated report by the group of experts are available on the Internet at [http://www.humanrights.coe.int/Eng/Art52/secretary\\_generals\\_request.htm/](http://www.humanrights.coe.int/Eng/Art52/secretary_generals_request.htm/).*

## 4. Decisions of the European Court of Human Rights

### Summaries of principal judgments

*The following judgments – adopted between 1 March 2000 and 30 June 2000 – have been the subject of press releases issued by the European Court of Human Rights. The summaries are based on information provided by the Registry of the European Court of Human Rights. They are not binding on the supervisory organs of the European Convention on Human Rights.*

*The complete list of the judgments adopted by the Court during the reference period, together with the full text, can be found on the Internet at <http://www.echr.coe.int/>.*

#### Krčmář v. Czech Republic

3 March 2000 [Section III] (No. 35376/97)

- non-disclosure to parties of documentary evidence obtained and relied on by the Constitutional Court (Article 6 para. 1) [violation]

#### Gładkowski v. Poland

14 March 2000 [Section IV] (No. 29697/96)

- length of civil proceedings (Article 6 para. 1) [striking out]

#### Stephen Jordan v. United Kingdom

14 March 2000 [Section III] (No. 30280/96)

- independence of military officer before whom detainee brought (Article 5 paras. 3 and 5) [violation]

#### Caliendo v. Italy

14 March 2000 [Section II] (No. 34437/97)

- length of administrative proceedings (Article 6 para. 1) [violation]

#### Cloez v. France

14 March 2000 [Section III] (No. 41861/98)

- length of criminal proceedings (Article 6 para. 1) [friendly settlement]

#### Özgür Gündem v. Turkey

16 March 2000 [Section IV] (No. 23144/93)

- campaign of intimidation forcing closure of newspaper (Article 10) [violation]
- alleged discrimination (Article 14) [no violation]

#### Wabl v. Austria

21 March 2000 [Section III] (No. 24773/94)

- injunction prohibiting repetition of allegation of "Nazi journalism" (Article 10) [no violation]

#### M.C. and Others v. United Kingdom

21 March 2000 [Section III] (Nos. 25283/94, 25690/94, 26701/95, 27771/95, 28457/95)

- detention for non-payment of community charge (Article 5 para. 1)
- unavailability of legal aid for proceedings relating to non-payment of community charge (Article 6 para. 3 (c)) [struck out]

#### Rushiti v. Austria

21 March 2000 [Section III] (No. 28389/95)

- absence of public hearing and public pronouncement in proceedings concerning compensation for detention on remand (Article 6 para. 1) [violation]

- refusal, on ground of continuing suspicion, of compensation for detention on remand (Article 6 para. 2) [violation]

#### J.K. v. Slovakia

21 March 2000 [Section II] (No. 29021/95)

- exclusion of court review of conviction for certain minor offences (Article 6 para. 1) [friendly settlement]

#### Dulaurans v. France

21 March 2000 [Section III] (No. 34553/97)

- manifest error by Court of Cassation in rejecting appeal (Article 6 para. 1) [violation]

#### Castell v. France

21 March 2000 [Section III] (No. 38783/97)

- length of civil proceedings (Article 6 para. 1) [violation]

#### Papadopoulos v. Cyprus

21 March 2000 [Section III] (No. 39972/98)

- length of civil proceedings (Article 6 para. 1) [violation]

#### Gergouil v. France

21 March 2000 [Section III] (No. 40111/98)

- length of proceedings relating to employment (Article 6 para. 1) [no violation]

#### Guichon v. France

21 March 2000 [Section III] (No. 40491/98)

- length of proceedings relating to employment (Article 6 para. 1) [no violation]

#### Boudier v. France

21 March 2000 [Section III] (No. 41857/98)

- length of criminal proceedings which the applicant had joined as a party seeking damages (Article 6 para. 1) [violation]

#### Velho da Costa and Tito de Morais v. Portugal

23 March 2000 [Section IV] (Nos. 33436/96 and 33475/96)

- length of civil proceedings (Article 6 para. 1) [friendly settlement]

#### Rodrigues Coelho Osório v. Portugal

23 March 2000 [Section IV] (No. 36674/98)

- length of proceedings relating to expropriation (Article 6 para. 1) [friendly settlement]
- length of proceedings relating to employment (Article 6 para. 1) [no violation]

#### Conde v. Portugal

23 March 2000 [Section IV] (No. 37010/97)

- length of civil proceedings (Article 6 para. 1) [violation]

#### Cemil Kiliç v. Turkey

28 March 2000 [Section I] (No. 22492/93)

- shooting of journalist by unidentified perpetrators – failure to provide protection (Article 2) [violation]
- effectiveness of investigation (Article 2) [violation]
- lack of effective remedy (Article 13) [violation]

#### Mahmut Kaya v. Turkey

28 March 2000 [Section I] (No. 22535/93)

- shooting of doctor by unidentified perpetrators – failure to provide protection (Article 2) [violation]
- effectiveness of investigation (Article 2) [violation]

- ill-treatment (Article 3) [violation]
- lack of effective remedy (Article 13) [violation]

#### **Baranowski v. Poland**

*28 March 2000 [Section I] (No. 28358/95)*

- continuation of detention on remand by virtue of a practice without any legal basis (Article 5 para. 1) [violation]
- length of time taken to decide on requests for release from detention on remand (Article 5 para. 4) [violation]

#### **Kiefer v. Switzerland**

*28 March 2000 [Section II] (No. 27353/95)*

- length of proceedings relating to a disability pension claim (Article 6 para. 1) [violation]

#### **Henry Krog Pedersen v. Denmark**

*28 March 2000 [Section II] (No. 28064/95)*

- length of civil proceedings (Article 6 para. 1) [friendly settlement]

#### **Curley v. United Kingdom**

*28 March 2000 [Section III] (No. 32340/96)*

- absence of court review of detention “at Her Majesty’s pleasure” after expiry of tariff (Article 5 para. 4) [violation]
- absence of right to compensation (Article 5 para. 5) [violation]

#### **Gerber v. France**

*28 March 2000 [Section III] (No. 33237/96)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Zanatta v. France**

*28 March 2000 [Section III] (No. 38042/97)*

- length of proceedings relating to expropriation (Article 6 para. 1) [violation]

#### **Protopapa and Marangou v. Greece**

*28 March 2000 [Section III] (No. 38971/97)*

- length of proceedings relating to expropriation (Article 6 para. 1) [violation]

#### **Georgiadis v. Greece**

*28 March 2000 [Section II] (No. 41209/98)*

- refusal of authorities to implement final and binding court judgment (Article 6 para. 1) [violation]
- non-payment by State of sums due to applicant (Article 1 of Protocol No. 1) [violation]

#### **Jacque and Ledun v. France**

*28 March 2000 [Section III] (No. 40493/98)*

- length of administrative proceedings (Article 6 para. 1) [violation]

#### **Pitsillos v. Cyprus**

*28 March 2000 [Section III] (No. 41854/98)*

- length of civil proceedings (Article 6 para. 1) [friendly settlement]

#### **J.T. v. United Kingdom**

*30 March 2000 [Section IV] (No. 26494/95)*

- impossibility for psychiatric detainee to have “nearest relative” changed (Article 8) [agreed solution]

#### **Procaccini v. Italy**

*30 March 2000 [Section IV] (No. 31631/96)*

- length of administrative proceedings (Article 6 para. 1) [violation]

#### **I.S. v. Slovakia**

*4 April 2000 [Section II] (No. 25006/94)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Witold Litwa v. Poland**

*4 April 2000 [Section II] (No. 26629/95)*

- detention at a sobering-up centre (Article 5 para. 1 (e)) [violation]

#### **Pfleger v. Austria**

*4 April 2000 [Section III] (No. 27648/95)*

- lack of public hearing and of public judgment in proceedings relating to land consolidation (Article 6 para. 1) [friendly settlement]

#### **Papachelas v. Greece**

*4 April 2000 [Grand Chamber] (No. 31423/96)*

- [just satisfaction] *See summary at end of listings.*

#### **Academy Trading Ltd v. Greece**

*4 April 2000 [Section I] (No. 30342/96)*

- impartiality of Court of Cassation (Article 6 para. 1) [no violation]
- length of civil proceedings (Article 6 para. 1) [violation]

#### **Walsh v. United Kingdom**

*4 April 2000 [Section III] (No. 33744/96)*

- length of time taken to review detention “at Her Majesty’s pleasure” after expiry of tariff (Article 5 para. 4) [striking out]

#### **Dewicka v. Poland**

*4 April 2000 [Section IV] (No. 38670/97)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Denmark v. Turkey**

*5 April 2000 [Section I] (No. 34382/97)*

- alleged ill-treatment of Danish national (Article 3) [friendly settlement] *See summary at end of listings.*

#### **Capodanno v. Italy**

*5 April 2000 [Section II] (No. 39881/98)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Sciarrotta and Guarino v. Italy**

*5 April 2000 [Section II] (No. 40623/98)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **A.V. and A.B. v. Italy**

*5 April 2000 [Section II] (No. 40958/98)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Di Annunzio v. Italy**

*5 April 2000 [Section II] (No. 40965/98)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Muso v. Italy**

*5 April 2000 [Section II] (No. 40981/98)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Labita v. Italy**

*6 April 2000 [Grand Chamber] (No. 26772/95)*

- alleged ill-treatment of prisoner (Article 3) [no violation]
- effectiveness of investigation into allegations of ill-treatment (Article 3) [violation]
- length of detention on remand (Article 5 para. 3) [violation]
- delay in releasing prisoner after acquittal (Article 5 para. 1) [violation]
- restrictions on freedom of movement of suspected *mafioso* (Article 2 of Protocol No. 4) [violation]
- disenfranchisement of the applicant (Article 3 of Protocol No. 1) [violation] *See summary at end of listings.*

#### **Athanassoglou and Others v. Switzerland**

*6 April 2000 [Grand Chamber] (No. 27644/95)*

- access to court to contest granting of extension licence for nuclear plant (Article 6 para. 1) [no violation]

- lack of effective remedy (Article 13) [no violation] *See summary at end of listings.*
- Thlimmenos v. Greece**  
6 April 2000 [Grand Chamber] (No. 34369/97)
- denial of access to profession due to conviction for refusal, on religious grounds, to enlist in armed forces (Articles 14 and 9) [violation]
  - length of civil proceedings (Article 6 para. 1) [violation] *See summary at end of listings.*
- Comingersoll v. Portugal**  
6 April 2000 [Grand Chamber] (No. 35382/97)
- length of enforcement proceedings (Article 6 para. 1) [violation] *See summary at end of listings.*
- Veznedaroglu v. Turkey**  
11 April 2000 [Section II] (No. 32357/96)
- alleged torture in police custody and effectiveness of investigation (Article 3) [violation]
- Coscia v. Italy**  
11 April 2000 [Section I] (No. 35616/97)
- length of civil proceedings (Article 6 para. 1) [violation]
- Sanna v. Italy**  
11 April 2000 [Section I] (No. 38135/97)
- length of civil proceedings (Article 6 para. 1) [violation]
- Rizzotto v. France**  
25 April 2000 [Section III] (No. 31115/96)
- length of detention on remand and length of criminal proceedings (Articles 5 para. 3 and 6 para. 1) [striking out for failure to present a statement on the merits of the case]
- Punzelt v. Czech Republic**  
25 April 2000 [Section III] (No. 31315/96)
- length of detention on remand (Article 5 para. 3) [violation]
  - refusal to release on bail (Article 5 para. 3) [no violation]
  - length of criminal proceedings (Article 6 para. 1) [no violation]
- Cornwell v. United Kingdom**  
25 April 2000 [Section III] (No. 36578/97)
- unavailability of widows' allowance to widowers (Article 14) [friendly settlement]
- Leary v. United Kingdom**  
25 April 2000 [Section III] (No. 38890/97)
- unavailability of widows' allowance to widowers (Article 14) [friendly settlement]
- L. v. Finland**  
27 April 2000 [Section IV] (No. 25651/94)
- taking of children into care, restrictions on father's and grandfather's access, effective remedy (Articles 8 and 13) [no violation]
  - lack of oral hearing (Article 6 para. 1) [violation]
- K. and T. v. Finland**  
27 April 2000 [Section IV] (No. 25702/94)
- taking of child into care, refusal to terminate care, restrictions on parent's access (Article 8) [violation]
  - effective remedy (Article 13) [no violation]
- Kuopila v. Finland**  
27 April 2000 [Section IV] (No. 27752/95)
- non-disclosure to accused of material submitted to court by the prosecution (Article 6 para. 1) [violation]

- Pepe v. Italy**  
27 April 2000 [Section II] (No. 30132/97)
- length of criminal proceedings (Article 6 para. 1) [violation]
- Starace v. Italy**  
27 April 2000 [Section II] (No. 34081/96)
- length of criminal proceedings (Article 6 para. 1) [violation]
- Aspichi Dehwari v. the Netherlands**  
27 April 2000 [Section I] (No. 37014/97)
- threatened expulsion to Iran (Articles 2 and 3 and Article 1 of Protocol No. 6) [struck out – settlement between parties]
- Rotondi v. Italy**  
27 April 2000 [Section II] (No. 38113/97)
- length of civil proceedings (Article 6 para. 1) [violation]
- Bertozi v. Italy**  
27 April 2000 [Section II] (No. 39883/98)
- length of civil proceedings (Article 6 para. 1) [violation]
- S.A.GE.MA. S.n.v. v. Italy**  
27 April 2000 [Section II] (No. 40184/98)
- length of civil proceedings (Article 6 para. 1) [violation]
- Vero v. Italy**  
28 April 2000 [Section IV] (No. 41818/98)
- length of proceedings in the Audit Court (Article 6 para. 1) [violation]
- Sinanoga v. Italy**  
28 April 2000 [Section IV] (No. 41820/98)
- length of proceedings in the Audit Court (Article 6 para. 1) [violation]
- Cardillo v. Italy**  
28 April 2000 [Section IV] (No. 41833/98)
- length of proceedings in the Audit Court (Article 6 para. 1) [violation]
- Di Antonio v. Italy**  
28 April 2000 [Section IV] (No. 41839/98)
- length of proceedings in the Audit Court (Article 6 para. 1) [violation]
- Vay v. Italy**  
28 April 2000 [Section IV] (No. 41841/98)
- length of proceedings in the Audit Court (Article 6 para. 1) [violation]
- Bergens Tidende and Others v. Norway**  
2 May 2000 [Section III] (No. 26132/95)
- award of damages against newspaper for defamation (Article 10) [violation]
- Condron v. United Kingdom**  
2 May 2000 [Section III] (No. 35718/97)
- drawing of adverse inferences by a jury from accused's failure to answer police questions (Article 6 para. 1) [violation]
- Rotaru v. Romania**  
4 May 2000 [Grand Chamber] (No. 28341/95)
- storing and use of personal data and absence of possibility of refuting accuracy (Article 8) [violation]
  - availability of effective remedy (Article 13) [violation]
  - failure of court to examine claim for compensation (Article 6 para. 1) [violation] *See summary at end of listings.*
- Ertak v. Turkey**  
9 May 2000 [Section I] (No. 20764/92)
- disappearance of applicant's son after allegedly being taken into custody (Article 2) [violation]

- effectiveness of investigation (Article 2) [violation]

#### **Sander v. United Kingdom**

*9 May 2000 [Section III] (No. 34129/96)*

- alleged racial prejudice of jurors (Article 6 para. 1) [violation]

#### **Khan v. United Kingdom**

*12 May 2000 [Section III] (No. 35394/97)*

- absence of legal basis for interception of conversation by means of listening device installed on private property (Article 8) [violation]
- use in criminal proceedings of evidence obtained in breach of Article 8 of the Convention (Article 6 para. 1) [no violation]
- absence of effective remedy in respect of complaint about interception of conversation (Article 13) [violation]

#### **Velikova v. Bulgaria**

*18 May 2000 [Section IV] (No. 41488/98)*

- death in police custody (Article 2) [violation]
- effectiveness of investigation (Article 2) [violation]
- lack of effective remedy (Article 13) [violation]
- discrimination against gypsies (Article 14) [no violation]

#### **Fertiladour S.A. v. Portugal**

*18 May 2000 [Section IV] (No. 33668/97)*

- length of civil proceedings (Article 6 para. 1) [violation]

#### **Gaulieder v. Slovakia**

*18 May 2000 [Section II] (No. 36909/97)*

- termination of mandate of Member of Parliament on basis of letter of resignation which he claimed never to have sent (Article 3 of Protocol No. 1) [friendly settlement]

#### **Van Pelt v. France**

*23 May 2000 [Section III] (No. 31070/96)*

- length of criminal proceedings (Article 6 para. 1) [no violation]
- appellate court's refusal to allow a lawyer to represent client in the latter's absence (Article 6 paras. 1 and 3(c)) [violation]
- dismissal of appeal on points of law as a result of appellant's failure to surrender into custody prior to appeal hearing (Article 6 para. 1) [violation]

#### **Wójcik v. Poland**

*23 May 2000 [Section I] (No. 26757/95)*

- length of detention on remand (Article 5 para. 3)
- lack of adversarial proceedings in review of lawfulness of detention (Article 5 para. 4)
- length of criminal proceedings (Article 6 para. 1) [struck out]

#### **Arbore v. Italy**

*25 May 2000 [Section IV] (No. 41840/98)*

- length of proceedings in the Audit Court (Article 6 para. 1) [violation]

#### **Miragall Escolano and Others v. Spain**

*25 May 2000 [Section IV] (Nos. 38366/97, 38688/97, 40777/98, 40843/98, 41015/98, 41400/98, 41446/98, 41484/98, 41487/98 and 41509/98)*

- [just satisfaction – agreed solution]

#### **A.O. v. Italy**

*30 May 2000 [Section II] (No. 22534/93)*

- staggering of granting of police assistance to enforce eviction orders (Article 1 of Protocol No. 1) [violation]

#### **Carbonara and Ventura v. Italy**

*30 May 2000 [Section II] (No. 24638/94)*

- validation of unlawful occupation of property as indirect expropriation (Article 1 of Protocol No. 1) [violation]

#### **Belvedere Alberghiera v. Italy**

*30 May 2000 [Section II] (No. 31524/96)*

- validation of unlawful occupation of property as indirect expropriation (Article 1 of Protocol No. 1) [violation]

#### **Vilborg Yrsa Sigurðardóttir v. Iceland**

*30 May 2000 [Section I] (No. 32451/96)*

- right to be presumed innocent until proven guilty; refusal of compensation for detention (Article 6 para. 2) [friendly settlement]

#### **Siglfirðingur EHF v. Iceland**

*30 May 2000 [Section I] (No. 34142/96)*

- absence of possibility of review by the Supreme Court of the imposition of a fine by a Labour Court (Article 2 para. 1 of Protocol No. 7) [friendly settlement]

#### **Bruny v. France**

*30 May 2000 [Section III] (No. 41792/98)*

- length of proceedings relating to employment (Article 6 para. 1) [friendly settlement]

#### **Favre-Clément v. France**

*30 May 2000 [Section III] (No. 35055/97)*

- length of detention on remand (Article 5 para. 3) [preliminary objection allowed – non-exhaustion of domestic remedies]

#### **Laurent Bernard v. France**

*30 May 2000 [Section III] (No. 38164/97)*

- length of detention on remand (Article 5 para. 3) [preliminary objection allowed – non-exhaustion of domestic remedies]

#### **Mikulski v. Poland**

*6 June 2000 [Grand Chamber] (No. 27914/95)*

- length of detention on remand (Article 5 para. 3)
- length of criminal proceedings (Article 6 para. 1)
- effective remedy (Article 13) [friendly settlement] *See summary at end of listings.*

#### **Magee v. United Kingdom**

*6 June 2000 [Section III] (No. 28135/95)*

- denial of access to a lawyer during initial stages of detention (Article 6 paras. 1 and 3 (c)) [violation]
- alleged discrimination between detainees in different parts of the United Kingdom (Article 14) [no violation]

#### **Český v. Czech Republic**

*6 June 2000 [Section III] (No. 33644/96)*

- length of detention on remand (Article 5 para. 3) [violation]

#### **Morel v. France**

*6 June 2000 [Section III] (No. 34130/96)*

- alleged non-communication of report of *juge-commissaire* in liquidation proceedings (Article 6 para. 1) [no violation]
- alleged lack of impartiality of *juge-commissaire* (Article 6 para. 1) [no violation]

#### **Castillon v. France**

*6 June 2000 [Section III] (No. 35348/97)*

- length of detention on remand (Article 5 para. 3) [preliminary objection allowed – non-exhaustion of domestic remedies]

#### **Averill v. United Kingdom**

*6 June 2000 [Section III] (No. 36408/97)*

- drawing of adverse inferences from accused's silence (Article 6 paras. 1 and 2) [no violation]
- denial of access to a lawyer during initial stages of detention (Article 6 paras. 1 and 3 (c)) [violation]

**Downing v. United Kingdom**

6 June 2000 [Section III] (No. 36525/97)

- absence of court review of detention “at Her Majesty’s pleasure” after expiry of tariff (Article 5 para. 4) [agreed solution]

**Grosse v. Denmark**

8 June 2000 [Section II] (No. 30285/96)

- length of criminal proceedings (Article 6 para. 1) [friendly settlement]

**Oliveira Modesto and Others v. Portugal**

8 June 2000 [Section IV] (No. 34422/97)

- length of civil proceedings (Article 6 para. 1) [violation]

**Timurtaş v. Turkey**

13 June 2000 [Section I] (No. 23531/94)

- disappearance of applicant’s son after being taken into custody (Article 2) [violation]
- effective investigation (Article 2) [violation]
- suffering occasioned to father of disappeared person (Article 3) [violation]
- unacknowledged detention (Article 5) [violation]
- lack of effective remedy (Article 13) [violation]
- alleged hindrance of right of petition (Article 34) [no failure to comply with obligations]

**Serra v. France**

13 June 2000 [Section III] (No. 34206/96)

- length of administrative proceedings (Article 6 para. 1) [violation]

**Erdoğan v. Turkey**

15 June 2000 [Section IV] (No. 25723/94)

- conviction of editor for making separatist propaganda (Article 10) [violation]

**Lindelöf v. Sweden**

20 June 2000 [Section I] (No. 22771/93)

- taking of child into care on ground of suspected sexual abuse and restrictions on access (Articles 6 para. 2 and 8) [friendly settlement]

**Foxley v. United Kingdom**

20 June 2000 [Section III] (No. 33274/96)

- redirection of bankrupt’s mail to the trustee in bankruptcy (Article 8) [violation]

**Mauer v. Austria (No. 2)**

20 June 2000 [Section III] (No. 35401/97)

- access to court – administrative criminal proceedings (Article 6 para. 1) [violation]

**Coeme and Others v. Belgium**

22 June 2000 [Section II] (Nos. 32492/96, 32547/96, 32548/96, 33209/96 and 33210/96)

- lack of procedural rules governing examination by Court of Cassation of criminal charges against Government Minister (Article 6 para. 1) [violation]
- absence of legal basis for examination by Court of Cassation of criminal charges against accused who are not Government Ministers (Article 6 para. 1) [violation]
- refusal of Court of Cassation to refer preliminary questions to the Arbitration Court (Article 6 para. 1) [no violation]
- independence and impartiality of the Court of Cassation – role of *Ministère public* attached to the Court of Cassation (Article 6 para. 1) [no violation]

- self-incrimination – use at trial of previous statements (Article 6 para. 1) [no violation]
- length of criminal proceedings (Article 6 para. 1) [no violation]
- extension of prescription period (Article 7) [no violation]

**Garcia Faria v. Portugal**

22 June 2000 [Section IV] (No. 36776/97)

- length of civil proceedings (Article 6 para. 1) [friendly settlement]

**Bacelar de Sousa Machado v. Portugal**

22 June 2000 [Section IV] (No. 37308/97)

- length of civil proceedings (Article 6 para. 1) [friendly settlement]

**Bacelar de Sousa Machado v. Portugal**

22 June 2000 [Section IV] (No. 37311/97)

- length of civil proceedings (Article 6 para. 1) [friendly settlement]

**Frydlender v. France**

27 June 2000 [Grand Chamber] (No. 30979/96)

- length of administrative proceedings (Article 6 para. 1) [violation] *See summary at end of listings.*

**Cha’are Shalom ve Tsedek v. France**

27 June 2000 [Grand Chamber] (No. 27417/95)

- rejection of applicant association’s application for permission to perform ritual slaughter (Articles 9 and 14) [no violation] *See summary at end of listings.*

**Salman v. Turkey**

27 June 2000 [Grand Chamber] (No. 21986/93)

- allegations that the applicant’s husband died as result of torture under interrogation (Articles 2, 3, 13 and 34) [violations] *See summary at end of listings.*

**Ilhan v. Turkey**

27 June 2000 [Grand Chamber] (No. 22277/93)

- ill-treatment of applicant’s brother, allegedly beaten by gendarmes and not given necessary medical treatment; absence of effective remedy, the enquiry being allegedly flawed (Articles 2, 3 and 13) [non-violation of Article 2; violations of Articles 3 and 13] *See summary at end of listings.*

**Constantinescu v. Romania**

27 June 2000 [Section I] (No. 28871/95)

- denial of a fair hearing (Article 6 para. 1) [violation]

**Nuutinen v. Finland**

27 June 2000 [Section I] (No. 32842/96)

- excessively lengthy court proceedings for the determination of the paternity, custody and access rights (Article 6 para. 1) [violation]

**Raif Oglu v. Greece**

27 June 2000 [Section I] (No. 33738/96)

- denial of right to effective judicial protection and to freedom from discrimination (Article 6 para. 1) [struck off the list]

**Sabeur Ben Ali v. Malta**

29 June 2000 [Section II] (No. 35892/97)

- no evidence that during his detention on remand the applicant had at his disposal a remedy for challenging the lawfulness of his detention (Article 5 paras. 3 and 4) [violation]



## Information on judgments delivered by the Grand Chamber

### Papachelas v. Greece

*Judgment of 4 April 2000 on the question of just satisfaction*

The case concerned length of proceedings, and an alleged infringement of property rights. It was claimed that expropriation of land had been carried out without complete and fair compensation.

The case was struck off the list after a friendly settlement.

### Labita v. Italy

*Judgment of 6 April 2000*

The applicant was suspected of being a member of the Mafia. He was held in detention pending trial for approximately two years and seven months, in conditions that he alleged amounted to ill-treatment. He was subjected to a special regime entailing censorship of all his correspondence and even after his acquittal, preventive measures were imposed on him (curfew from 8 p.m. to 6 a.m., weekly reporting to the police) and he was deprived of his voting rights.

The Court held:

- concerning Article 3: that the information available concerning the allegations of physical and psychological ill-treatment during detention and transfer from prison did not lead it to conclude a violation; but that there had been a violation of Article 3 of the Convention in that no effective official investigation into those allegations was held;
- concerning Article 5 para. 3: that the applicant could claim to be a "victim" for the purposes of Article 34 of the Convention as regards the length of his pre-trial detention; and that the reasons evoked for the detention of the applicant were insufficient and based on evidence which, with time, had become weaker rather than stronger;
- concerning Article 5 para. 1: that the detention of the applicant for twelve hours following his acquittal, on the grounds that the registration officer was absent, constituted a violation;
- concerning Article 8: the censorship of the applicant's correspondence was initially based on section 18 of Law No. 354 of 1975, which did not indicate with sufficient clarity the extent of the relevant authorities' discretion in that sphere or provide guidance on how it was to be exercised. Subsequently, the censorship was based on an order of the Minister of Justice made pursuant to section 41 *bis* of Law No. 354 of 1975. However, the Italian Constitutional Court had held that the Minister of Justice had no power to take measures concerning prisoners' correspondence and had therefore acted *ultra vires* under Italian law. There had therefore been a violation of Article 8;
- concerning Article 2 of Protocol No. 4: that the restrictions on the applicant's freedom of movement could not be regarded as having been "necessary in a democratic society", since the decision to put the applicant under special supervision – taken at the beginning of the proceedings at a time when there indeed existed some evidence that he was a member of the Mafia – was not put into effect until after he had been acquitted, when the authorities had not found any concrete evidence to show that he was a member of the Mafia. There had therefore been a violation of Article 2 of Protocol No. 4;
- concerning Article 3 of Protocol No. 1: when the applicant's name was removed from the electoral register, there was no concrete evidence on which a "suspicion" that he belonged to the Mafia could have been based. The Court could not regard that measure as proportionate. There had therefore been a violation of Article 3 of Protocol No. 1.

The Court awarded the applicant certain sums for non-pecuniary damage and for legal costs and expenses incurred at the hearing before the Court.

### Athanassoglou and Others v. Switzerland

*Judgment of 6 April 2000*

The applicants lived in villages situated in the vicinity of a nuclear power plant. In December 1991 the private company which had operated the nuclear power plant since 1971 applied to the Swiss Federal Council for an extension of its operating licence for an indefinite period. More than 18 400 objections were lodged requesting the refusal of an extension to the operating licence and the immediate and permanent closure of the nuclear power plant. They cited the risks which they maintained such an extension entailed to their rights to life, physical integrity and property, claiming that the plant did not meet current safety standards on account of serious and irremediable construction defects; and that, owing to its condition, the risk of an accident was greater than usual. The Federal Council dismissed all the objections as being unfounded and granted the operator a limited licence expiring on 31 December 2004.

The applicants complained they were denied effective access to a court. The Court said that Article 6 para. 1 did not apply, since the procedure before the Federal Council was not decisive for the "determination" of any "civil right", such as the rights to life, physical integrity and of property, which Swiss law conferred on the applicants in their individual capacity.

The applicants further claimed a violation of Article 13 in that, concerning the decision to renew the operating licence of the nuclear power plant, no effective remedy was available to them under domestic law enabling them to complain of violations either of their right to life under Article 2 or of their right to respect for bodily integrity as safeguarded under Article 8. The Court found Article 13 to be inapplicable, since the connection between the Federal Court's decision and the rights protected by Articles 2 and 8 was too tenuous and remote.

### Thlimmenos v. Greece

*Judgment of 6 April 2000*

The applicant is a Jehovah's Witness. In 1983 the Permanent Martial Court found him guilty of insubordination for refusing to enlist in the army for religious reasons. Subsequently, the executive board of the Greek chartered accountants' body refused to appoint him as a chartered accountant because he had a criminal record, even though he had passed the relevant qualifying exam. Mr Thlimmenos appealed against this decision, but his appeal was rejected.

The applicant complained of violations of his right to freedom of religion, his right not to be subjected to discrimination in this respect and the right to a hearing within a reasonable time in the determination of his civil rights and obligations guaranteed under Articles 9, 14 and 6 para. 1 of the Convention as well as of the right to peaceful enjoyment of his possessions guaranteed under Article 1 of Protocol No. 1. This last complaint was declared inadmissible.

The Court held that excluding the applicant from the profession of chartered accountant did not pursue a legitimate aim, since a conviction for refusing on religious or philosophical grounds to wear the military uniform could not imply any dishonesty or moral turpitude likely to undermine the offender's ability to exercise this profession.

Concerning the length of proceedings, the Court concluded that they failed to meet the "reasonable time" requirement.

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

### Comingersoll S.A. v. Portugal

*Judgment of 6 April 2000*

The applicant company complained of the length of civil proceedings in a case involving the recovery of sums owed by another

company. The Court found that a period of seventeen years and five months for a final decision that had yet to be delivered in proceedings issued on the basis of an authority to execute – which by their very nature needed to be dealt with expeditiously – could not be said to have been reasonable.

Concerning the application of Article 41, the case gave rise to an issue of principle, namely whether legal entities (as opposed to individuals) could claim compensation for the non-pecuniary damage occasioned by the anxiety, inconvenience and uncertainty caused by the alleged violation. The Court reiterated that the Convention had to be interpreted and applied in such a way as to guarantee rights that were practical and effective. Since the principal form of redress which the Court could order was pecuniary compensation, it necessarily had to be empowered, if the right guaranteed by Article 6 of the Convention was to be effective, to award pecuniary compensation for non-pecuniary damage to commercial companies too. In the case before it, the Court considered that the applicant company had been left in a state of uncertainty that justified making an award of compensation.

### **Rotaru v. Romania**

*Judgment of 4 May 2000*

The case concerned an application introduced by a Romanian national, who in 1948 had been sentenced to a year's imprisonment for having expressed criticism of the communist regime established in 1946. In 1992 he brought an action in which he sought to be granted rights afforded to persons who had been persecuted by the communist regime. In the proceedings one defendant, the Ministry of the Interior, submitted to the court a letter sent to it by the Romanian Intelligence Service, which contained, among other things, information about the applicant's political activities between 1946 and 1948. According to the letter, Mr Rotaru had been a member of an extreme right-wing movement. The applicant considered that some of the information in question was false and defamatory, and brought proceedings against the Romanian Intelligence Service, claiming compensation for the non-pecuniary damage he had sustained and amendment or destruction of the file containing the untrue information. The claim was dismissed in final instance by the Bucharest Court of Appeal in 1994 on the grounds of lack of competence. In 1997 the Romanian Intelligence Service informed the Ministry of Justice that after further checks in their registers it appeared that the information about being a member of the right-wing movement referred not to the applicant but to another person of the same name. The Bucharest Court of Appeal quashed the judgment of 15 December 1994 and declared the information about the applicant's past null and void. It did not rule on the claim for damages.

The applicant claimed a violation of Article 8 in that the Romanian Intelligence Service held a file containing information on his private life and that it was impossible to refute the untrue information. He also complained of the lack of an effective remedy before a national authority which could rule on his application for amendment or destruction of the file containing untrue information.

The Court considered that although storing data on the private life of the applicant may have had a basis in Romanian law, domestic law did not indicate with reasonable clarity the scope and manner of exercise of the relevant discretion conferred on the public authorities. There had therefore been a violation of Article 8. The Court noted the absence of any provision of Romanian law that made it possible to challenge the holding, by the intelligence services, of information on the applicant's private life or to refute the truth of such information. It therefore concluded that the applicant had been the victim of a violation of Article 13. In addition, it considered that the applicant's claim for compensation for non-pecuniary damage and costs was a civil one. The Court of Appeal's failure to consider the claim had therefore infringed the applicant's right to a fair hearing within the meaning of Article 6 para. 1. The Court awarded the applicant certain sums for pecuniary and non-pecuniary damage and for costs and expenses.

### **Mikulski v. Poland**

*Judgment of 6 June 2000*

The case, concerning length of detention awaiting trial, length of proceedings, and the alleged absence of an effective remedy, was struck off the list after a friendly settlement was agreed.

### **Frydlender v. France**

*Judgment of 27 June 2000*

The applicant complained of the excessive length of proceedings in an appeal against an allegedly *ultra vires* decision of the Ministry for Economic Affairs not to renew his contract as an individual contractor on grounds of professional incompetence.

The Court considered that, in view of the nature of the duties performed by the applicant and the relatively low level of his responsibilities, he was not carrying out any task which could be said to entail, either directly or indirectly, duties designed to safeguard the general interests of the State. Article 6 of the Convention was therefore applicable to the dispute over a civil right between Mr Frydlender and the French State. Examining the length of proceedings, the Court noted that neither the complexity of the case nor the applicant's conduct explained the length of the proceedings of nearly nine years and eight months. Since the prolongation of the proceedings beyond a reasonable time had undoubtedly caused the applicant considerable difficulties and a lengthy period of uncertainty, the Court awarded him a certain sum for non-pecuniary damage and a further sum for costs and expenses.

### **Cha'are Shalom ve Tsedek v. France**

*Judgment of 27 June 2000*

The case concerned a refusal to grant official approval to an association to perform ritual slaughter in accordance with the very strict religious prescriptions of its members. The application was refused on the ground that the applicant association could not be considered a "religious body" within the meaning of Article 10 of the Decree of 1 October 1980.

The association complained, under Article 14 of the Convention, that it was the victim of discrimination contrary to that Article in that the approval it sought, which was needed to obtain access to slaughterhouses, was granted only to one association, which represented the vast majority of Jews in France, and whose ritual slaughterers, in the applicant's submission, did not carry out a sufficiently thorough examination of the meat which they certified as kosher.

The Court noted that the applicant association and its members were not in reality deprived of the opportunity to obtain and eat meat produced in accordance with their religious convictions. It held that the right to freedom of religion guaranteed by Article 9 of the Convention could not be interpreted as bestowing a right personally to carry out ritual slaughter, nor to any certification to that effect. As for the alleged disparity of treatment, the Court considered that it was limited in scope. The measure complained of had pursued a legitimate aim, and there had been a reasonable relationship of proportionality between the means employed and the aim sought to be realised. Such difference of treatment as there was had therefore had an objective and reasonable justification within the meaning of the Court's consistent case-law.

### **Salman v. Turkey**

*Judgment of 27 June 2000*

The applicant complained principally that her husband, taken into detention by police on suspicion of aiding and abetting the Kurdistan Workers' Party (PKK), died as a result of torture under interrogation in violation of Articles 2 and 3 of the Convention; and that she did not have any effective remedy, in violation of Article 13, because of defects in the investigation and judicial procedures. She further invoked former Article 25 of the Convention (now Article 34), alleging that she was victim of intimidation by the authorities concerning her application.

The Court found that the Government had not provided a plausible explanation for the marks and injuries found on Agit

Salman. Having regard to the nature and degree of this ill-treatment and to the strong inferences that it occurred during interrogation for suspected PKK activities, the Court found that it involved very serious and cruel suffering that could be characterised as torture. The evidence did not support the Government's contention that Agit Salman had died from a heart attack brought on by the stress of being taken into custody. As the Government had not accounted for his death during his detention and their responsibility for his death was engaged.

The Court also found that the authorities had failed to carry out an effective investigation into the circumstances of Agit Salman's death as required by Article 2. While a proper autopsy investigation was of critical importance in determining the facts surrounding the death, this procedure was defective, undermining any attempt to determine police responsibility for the death of Agit Salman. Furthermore, no efforts appeared to have been made to identify those officers who did, or could have ill-treated Agit Salman prior to his death. In those circumstances, the Court found that an appeal to the Court of Cassation against the acquittal of the ten officers on the indictment had no effective prospect of clarifying or improving the evidence available. The applicant therefore had not failed to comply with the requirement to exhaust domestic remedies. The Court held that there had been a violation of Article 13.

Concerning the questioning of the applicant about her application to the Convention organs and the conditions in which it had been carried out, the Court held that the applicant had been subject to undue interference with her petition. It awarded the applicant certain sums for pecuniary and non-pecuniary damage and for costs and expenses.

#### **Ilhan v. Turkey**

##### *Judgment of 27 June 2000*

The case concerned ill-treatment inflicted on the applicant's brother. He was arrested by gendarmes during an operation in the village he lived in, and was taken to hospital in a serious condition. In particular he suffered from 60% loss of function on his left side. The injury was declared accidental, and Abdüllatif Ilhan was charged with the offence of resistance to officers on the grounds that he had run away from the security forces, ignoring their orders to stop. The applicant alleged that his brother was the victim of a life-threatening assault and torture in violation of Articles 2 and 3 of the Convention and that he did not have any effective remedy, in violation of Article 13, due to the defects in the investigation.

The Court dismissed the government's preliminary objection that the application should be dismissed as incompatible *ratione personae* as the applicant could not himself claim to be a victim under the Convention of the violations alleged. It also dismissed the objection that the applicant had not exhausted domestic remedies.

The Court recalled that the force used against Abdüllatif Ilhan was not of such a nature or degree as to breach Article 2. It was, however, sufficiently serious and cruel as to be qualified as torture. With regard to the obligation on the authorities to carry out an effective investigation into the circumstances of the death, the Court held that this had not been conducted in accordance with Article 13, and that therefore no effective remedy had been provided in respect of Abdüllatif Ilhan's injuries and thereby access to any other available remedies, including a claim for compensation, had also been denied. The applicant was awarded, on behalf of his brother, certain sums for pecuniary and non-pecuniary damage and for legal costs and expenses.

#### **Denmark v. Turkey**

##### *Judgment of 5 April 2000*

Case struck off the list following a friendly settlement between the parties.

After consultations between the parties they submitted the following declarations:

#### *"Friendly settlement of Application No. 34382/97 Denmark versus Turkey"*

On 8 June 1999 the First Section of the European Court of Human Rights declared admissible application 34382/97 Denmark v. Turkey. The application is related to an examination of the allegation by a Danish citizen concerning ill-treatment in violation of Article 3 of the Convention by Turkish authorities during the period of 8 July to 16 August 1996, when he was detained in Turkey, and an examination of an allegation whether the interrogation techniques allegedly applied to this Danish citizen, are applied in Turkey as a widespread practice.

On 8 June 1999 the Court also put itself at the parties' disposal for the purpose of securing a friendly settlement in accordance with Article 38 1 (b) of the Convention. Furthermore, the Court stated that it would welcome any proposals either party might wish to make with a view to reaching such a settlement.

After consultations which the parties held between themselves, the Agents of the applicant Government and the respondent Government in the case presented to the Court a proposed joint outline for a friendly settlement of the Application 34382/97 Denmark v. Turkey. It reads as follows:

1. In order to settle the first part of the application, the respondent Government has agreed to pay to the applicant Government an amount *ex gratia* of DKK 450 000 which includes legal expenses connected with the case.
2. The applicant Government notes with satisfaction the enclosed declaration of the respondent Government, which constitutes an integral part of the friendly settlement.
3. In the light of the first part of the case, the applicant Government appreciates the acknowledgement and regret expressed by the respondent Government concerning occasional and individual cases of torture and ill-treatment in Turkey.
4. The applicant Government welcomes the steps taken by Turkey in order to combat ill-treatment and torture since the filing of the application on 7 January 1997.
5. The applicant Government and the respondent Government agree that the use of inappropriate police interrogation techniques constitutes a violation of Article 3 of the Convention and that such techniques shall be prevented in the future. The two Governments recognise that this aim can best be attained through training.

To this end the applicant Government and the respondent Government recall that the Council of Europe has launched a comprehensive project the objective of which is a re-organisation of the content of the basic, in-service and management training of the police in the member countries. The applicant Government notes with satisfaction the voluntary participation of the respondent Government in this open-ended project. One element of the project is training in police investigation. The project is dependent on funding from Turkey and other members of the Council of Europe. The applicant Government will make a significant financial contribution to this Council of Europe project.

Furthermore, the applicant Government will finance a bilateral project. This project – subject to agreement between the two parties – will be aimed at the training of Turkish police officers, in order to achieve further knowledge and practical skills in the field of human rights.

6. On the basis of the Action Plan for the Development of the Bilateral Relations Between Turkey and Denmark which was agreed by the Minister for Foreign Affairs of Denmark and the Minister of Foreign Affairs of Turkey in Copenhagen on 26 November 1999, the Government of Denmark and the Government of Turkey have decided to establish a continuous bilateral Danish-Turkish political dialogue.

This dialogue will also focus on human rights issues with a view to improving the human rights situation in concrete fields. The parties have agreed that individual cases, including cases concerning allegations of torture or ill-treatment, as well as general issues – such as the issues mentioned in the declaration by the Government of Turkey – may be raised by either party within the framework of this dialogue.'

### *Declaration by the Government of Turkey*

The Turkish Government regrets the occurrence of occasional and individual cases of torture and ill-treatment despite the resolute action of the Government and existing legislation as well as administrative regulations. New legal and administrative control and punishment regulations have been adopted as a consequence of which such individual acts substantially decreased.

Within the last year, Articles 243, 245 and 354 of the Turkish Penal Code (TPC) were amended to redefine and prevent torture and ill-treatment in accordance with international conventions and the penalty for such criminal acts were increased. The amendment of Article 354 stipulates the prosecution of doctors and other medical personnel charged with drafting false reports regarding cases of torture or ill-treatment.

The Regulation on Apprehension, Custody and Interrogation, which came into force on 1 October 1998, brought procedures in line with the standards of the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture (CPT). A circular of the Prime Ministry concerning increased respect for human rights, issued on 25 June 1999, introduced measures to ensure the effective implementation of the above-mentioned regulation by all relevant public authorities and enhanced control of implementation. The circular stipulates that Governors, District Governors, Public Prosecutors, Public Inspectors, other officials entitled for inspection, Commanders of Gendarmerie and Police Directors are authorised to implement random controls and inspections. The circular also stipulates that necessary measures will be rapidly taken

to remedy the deficiencies found during these inspections and necessary procedures will be initiated for faulty officials. In addition, the Ministries of Justice and the Interior will submit once in every three months from 1 January 2000 on, written information to the Prime Ministry's Human Rights Co-ordinating High Committee on the results of reports prepared with regard to these controls and inspections.

Finally, the Law on the Prosecution of Civil Servants and Other Officials, which was approved by Parliament on 2 December 1999 and entered into force, facilitates the initiation of investigations and prosecution of public officials.

In this context, the request for permission to initiate an investigation by public prosecutors of civil servants for crimes alleged to have been committed in connection to their duties has to be concluded within 4.5 months, the period for appeal included. The new law clarified many issues concerning the trial of public officials, determined the bodies authorised to allow an investigation and stipulated the authorities entitled to carry out preliminary examinations and preparatory investigations.

Allegations of torture and ill-treatment have been greatly reduced during the past two years as a result of the measures which have been taken by Turkish authorities. This progress has also been acknowledged since 1997 by the CPT, operating within the framework of the Convention for the Prevention of Torture, to which Turkey is a party.

In order to ensure the continuation of these reforms, our Government will undertake further improvements in the field of human rights, especially concerning the occurrence of incidents of torture and ill-treatment.

Turkey will continue co-operation with international organs and mechanisms as contained in international human rights instruments to which Turkey is a party – in particular the CPT. Turkey will also continue to inform such organs and mechanisms on developments with regard to the implementation of the legal and administrative measures in this field in accordance with their relevant rules and procedures."

## 5. European Court of Human Rights

### Judges of the Court at 30 June 2000 (by order of precedence)

Mr	Luzius Wildhaber	Swiss	President
Ms	Elisabeth Palm	Swedish	Vice-president
Mr	Christos Rozakis	Greek	Vice-president
Mr	Georg Ress	German	Section president
Mr	Jean-Paul Costa	French	Section president
Mr	Benedetto Conforti	Italian	
Mr	Antonio Pastor Ridruejo	Spanish	
Mr	Luigi Ferrari Bravo	Italian	Elected as judge in respect of San Marino
Mr	Gaukur Jörundsson	Icelandic	
Mr	Giovanni Bonello	Maltese	
Mr	Lucius Caflisch	Swiss	Elected as judge in respect of Liechtenstein
Mr	Loukis Loucaides	Cypriot	
Mr	Jerzy Makarczyk	Polish	
Mr	Pranas Kūris	Lithuanian	
Mr	Ireneu Cabral Barreto	Portuguese	
Mr	Rıza Türmen	Turkish	
Ms	Françoise Tulkens	Belgian	
Ms	Viera Stráznická	Slovakian	
Mr	Corneliu Bîrsan	Romanian	
Mr	Peer Lorenzen	Danish	
Mr	Willi Fuhrmann	Austrian	
Mr	Karel Jungwiert	Czech	
Sir	Nicolas Bratza	British	
Mr	Marc Fischbach	Luxemburger	
Mr	Volodymyr Butkevych	Ukrainian	
Mr	Josep Casadevall	Andorran	
Mr	Boštjan Zupancic	Slovenian	
Ms	Nina Vajic	Croatian	
Mr	John Hedigan	Irish	
Ms	Wilhelmina Thomassen	Dutch	
Mr	Matti Pellonpää	Finnish	
Ms	Margarita Tsatsa Nikolovska	citizen of "the Former Yugoslav Republic of Macedonia"	
Mr	Tudor Pantiru	Moldovan	
Ms	Hanne Sophie Greve	Norwegian	
Mr	András Baka	Hungarian	
Mr	Rait Maruste	Estonian	
Mr	Egils Levits	Latvian	
Mr	Kristaq Traja	Albanian	
Ms	Snejana Botoucharova	Bulgarian	
Mr	Mindia Ugrekhelidze	Georgian	
Mr	Anatoly Kovler	Russian	

### Election of two new section presidents

On 27 March 2000 the European Court of Human Rights elected two section presidents, Jean-Paul Costa and Georg Ress. They took office on 1 May 2000 for a term of 18 months as presidents of Sections III and IV respectively.

**Mr Jean-Paul Costa** is the French judge. He was born in 1941 and studied at the Institute of Political Studies of Paris, subsequently obtaining a post-graduate diploma from the Law Faculty in Paris. From 1964 to 1966 he attended the National School of Administration and in June 1966 he was appointed *auditeur* at the Conseil d'Etat. From 1973 to 1977 he was the Deputy Director General of the Intergovernmental Bureau for Informatics. From 1981 to 1984 he was head of the private office of the Minister of Education. From 1985 to 1986 he chaired the French delegation during the negotiations for the Treaty between France and the United Kingdom for the channel fixed link. From 1989 to 1993 he was Assessor of a Chamber in the Judicial Division of the *Conseil d'Etat* and from 1993 to 1998 he was the President of a Chamber. He has been a Judge of the European Court of Human Rights since 1 November 1998.

**Mr Georg Ress** is the German judge. He was born in 1935 and studied at the Free University of Berlin and the University of Vienna. In 1972 he obtained a doctorate in law from the University of Heidelberg and in 1976 the Habilitation. From 1977 to 1998 he was Full Professor of International and Constitutional Law and the Law of the European Communities at the University of the Saarland (Saarbrücken). In 1979 he was appointed Director of the Institute of European Studies at the University of the Saarland and in 1995 Director of the Institute of Human Rights at the same University. From 1994 to 1998 he was the German member of the European Commission of Human Rights. He has been a Judge of the European Court of Human Rights since 1 November 1998.

# Nobler in the mind?

Is the practice of handing down titles of nobility through the male line contrary to the principles of the European Convention on Human Rights? A recent Court decision analysed.\*

by *Sofía de Salas*<sup>1</sup>

The present-day significance and means of transmission of inherited titles has recently been under discussion in Spanish legal and academic circles.

Such questions have played an important role in the country's history, and the 1876 Constitution covered them in its Article 60. The current Constitution, however, which dates from 1978, remains silent on the matter. And yet there are still legal rules governing the obtaining and handing down of noble titles. These historical regulations – some of which go back to the 13th century – form part of the “positive law” and can thus be enforced in the courts. The Supreme Court has several times pronounced on such issues.<sup>2</sup>

The handing down of titles is governed by the principle of respecting the wishes of the founder of the title; or, failing this, by the laws of primogeniture – where precedence is given to the first-born male child.

It is this last point that raises questions today, especially in view of

the provisions of Article 14 of the European Convention on Human Rights<sup>3</sup> and Article 14 of the Spanish Constitution, which proclaims the equality of all Spaniards before the law.<sup>4</sup>

One of the earliest judgments of the Spanish Constitutional Court, delivered in 1982, concerned precisely the question of whether the rules applicable to titles of nobility were compatible with human rights and fundamental freedoms. By the terms of this judgment, the legal recognition of a noble title was limited to the right to obtain it, use it and protect it against abuse by third parties, in just the same way as a surname. A noble title was deemed to bestow no privileged status and had no relevance in the exercise of fundamental rights.<sup>5</sup>

Nevertheless, during the period 1986-96 the Supreme Court took a different view: in eleven judgments it declared that the principle of succession through the male line in the handing down of titles was discriminatory and contrary to

Article 14 of the Spanish Constitution.<sup>6</sup>

In its turn, the Constitutional Court, to which three appeals were referred on grounds that they were unconstitutional, reaffirmed by its judgment of 3 July 1997 that the principle of male succession did not contravene the Constitution. The court considered that a title had no material value, but was merely honorary and symbolic, and that therefore there was no reason to declare unconstitutional one method or another of passing on titles.<sup>7</sup>

Following the Constitutional Court's judgment, the Supreme Court modified its case-law. It now considers that the transmission of noble titles through the male line is not contrary to Article 14 of the Constitution.

This stance taken by the highest instances of the State has now been challenged before the European Court of Human Rights: four applications were submitted in 1998 by women laying claim to noble titles inherited by their younger brothers.\*

\* *De la Cierva Osorio de Moscoso, Fernández de Córdoba, Roca y Fernández Miranda and O'Neill Castrillo v. Spain*, Appl. Nos. 41127/98, 41503/98, 41717/98 and 45726/99. Admissibility decision, 28 October 1999.

The opinions expressed in this article are those of the author and do not engage the responsibility of the Council of Europe. They should not be regarded as placing on the legal instruments mentioned in it any official interpretation capable of binding the governments of member states, the Council of Europe's statutory organs or any organ set up by virtue of the European Convention on Human Rights.

1. Doctor of Law, Lecturer in Civil Law at the University of Saragossa.

2. See especially judgments of 28 November 1981, 25 February 1983, 27 September 1984, 7 July 1986, October 1987, 21 February 1992, 11 November 1997.

3. Article 14 of the Convention reads: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

4. Article 14 of the Spanish Constitution reads: “Spaniards are equal before the law; they may not be discriminated against for reasons of birth, race, sex, religion or opinion, nor by reason of any other personal or social condition or circumstance whatsoever.”

5. Judgment of 24 May 1982.

6. Voir notamment arrêts des 20 juin 1987, 28 avril 1989, 21 décembre 1992, 24 janvier 1995 et 7 mai 1996.

7. See in particular judgment of the Constitutional Court of 3 July 1997.

8. Article 8 of the Convention reads: “1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

9. Article 1 of Protocol No. 1 reads: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his

The applicants argued that both Article 8 (right to private and family life)<sup>8</sup> and Article 1 of Protocol No. 1 (right to enjoy property)<sup>9</sup> applied to their cases. They also claimed a violation of Article 14, which prohibits discrimination, including on grounds of sex.

In 1999 the Court's fourth section gave an admissibility decision covering the four applications taken together. They were unanimously declared inadmissible.

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### **Alleged violation of Article 8 of the Convention**

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The applicants cited Strasbourg case-law establishing the principle whereby Article 8 applies to disputes concerning forenames and family names of physical persons.<sup>10</sup> They pointed out that titles of nobility were inscribed in the civil register in the same way as forenames and surnames. Titles were thus to be considered as being among those things that comprise a person's identity and membership of a family. Deprivation of these titles therefore constituted a violation of the applicants' right to respect for private and family life.

The Court said that the inscription of a title on the civil register was merely a complementary element to the identification of the person. This information – supplementary and not required by law – could not be considered the equivalent of the registering of the given name and family name. It therefore declared the applications inadmissible under Article 8.

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### **Alleged violation of Article 1 of Protocol No. 1 to the Convention**

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The applicants also evoked the pecuniary considerations inherent in a noble title, which were manifested in the form of certain privileges or social advantages, etc., and by the custom, still well-established in certain circles, of handing down to the holder of a title particular possessions with a view to keeping them in the family. Being deprived of the disputed titles therefore constituted a violation of the applicants' right to respect for their possessions, with no reasonable justification nor compensation.

The Court rejected this second argument also. It said that the Convention protected the right of a person to inherited possessions, but did not guarantee the right to acquire possessions by inheritance through bequest or intestacy.

It is clear that the applicants, being unable to prove their right to the noble titles in question, could with difficulty claim the protection of pecuniary rights linked to the said titles; and still less justify a legitimate expectation of a right to any commercial exploitation, as a trade-name for instance. The Court's decision is all the more clear inasmuch as the judges seem to have had an inkling of the applicants' lack of conviction in their own claims.

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### **Alleged violation of Article 14 of the Convention**

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In addition to the previous alleged violations, the applicants also considered that they were victims of

a violation of Article 14 of the Convention, in that the principle of succession through the male line constituted discrimination which was disproportionate and had no legitimate goal. They claimed that in this respect they were subjected to less favourable treatment without reasonable justification.

The Court recalled that Article 14 concerned only discrimination pertaining to the rights protected by the Convention and its protocols. Since it had established that the applicants' complaints under Article 8 of the Convention and Article 1 of Protocol No. 1 were inapplicable *ratione materiae*, it concluded that the complaint founded on Article 14 taken in combination with these articles was also incompatible *ratione materiae* with the provisions of the Convention in the sense of Article 35 para. 3.

In conclusion, it seems that the attempts to define a title of nobility as an element of private and family life and as a pecuniary possession have a weak legal basis. Nevertheless, the basic question of the principle of equality remains open. The Court had no opportunity in the present case to examine it independently, the complaint under Article 14 being combined with the applicants' other complaints.

If the principle of transmission through the male line seems no longer to be in doubt in Spain as far as historic noble titles are concerned, it could nevertheless be challenged in the case of titles created after the entry into force of the present Constitution. But this is a different question, which seems unlikely to come before the Strasbourg Court in the foreseeable future.

possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

10. See, *mutatis mutandis*, judgments in the cases of *Burghartz v. Switzerland* of 22 February 1994, Series A no. 280-B, p. 28, para. 24; *Stjerna v. Finland* of 25 November 1994, Series A no. 299-B, p. 60, para. 37; and *Guillot v. France* of 24 October 1996, Reports of judgments and decisions 1996-V, pp. 1602-1603, para. 21.

## 6. The Committee of Ministers' actions under Articles 32 and 46 (or 54) of the Convention

The Committee of Ministers acts to ensure the collective guarantee of the rights and fundamental freedoms contained in the Convention and its protocols under the following articles:

Under **Article 32** of the former version of the Convention (see the transitional provisions in Protocol No. 11) it has responsibility for deciding, for cases that are not referred to the Court, whether or not there has been a violation of the Convention; and for awarding, where necessary, just satisfaction to the victims. The Committee of Ministers' decision concerning the violation – which can be equated with a judgment of the Court – may, since 1995, take one of two forms: an “interim” resolution, which at the same time makes public the Commission's report; or a “traditional” resolution (adopted after the complete execution of the judgment), in which case the Commission's report remains confidential for the entire period of the execution.

So in the same way as it supervises the execution of the Court's judgments, the Committee of Ministers is also responsible for supervising the execution of its own decisions; and its examination is not complete until all the measures for the execution of the judgment have been carried out. Where the Committee of Ministers decides to publish immediately its decision on the violation, a “final” resolution is adopted once all the measures required for its execution have been carried out.

The Committee of Ministers' decisions on just satisfaction are not published separately but appear as “traditional” or “final” resolutions.

Under **Article 54** of the former version of the Convention, now **Article 46** of the Convention as modified by Protocol No. 11, the Committee of Ministers has the responsibility for supervising the carrying out of the measures adopted by the defending states for the implementation of the Court's judgments. These may be measures that concern the applicant, such as payment of just satisfaction, reopening of proceedings at the origin of the violation, reversal of a judicial verdict or discontinuation of expulsion proceedings; or measures to prevent the repetition of the violation, such as changing legislation or case-law, appointing extra judges or magistrates to absorb a backlog of cases, building detention centres suitable for juvenile delinquents, introducing training for the police, or other similar steps.

Owing to the large number of resolutions adopted by the Committee of Ministers under these articles, they are listed here in tabular form, with only those which present a particular interest being summarised. Further information may be obtained from the Directorate General of Human Rights at the Council of Europe, or through the Committee of Ministers' Internet site at <http://www.coe.fr/cm>.

The following summary presents resolutions adopted at the 704th and 709th meetings of the Ministers' Deputies (held over the period March-June 2000). The resolutions printed *in italics* in the following lists are of particular interest, and are summarised after the appropriate table.

### A. Interim resolutions establishing violations of the Convention

Case		Resolution	Article(s)
<i>P.B.</i>	<i>v. Switzerland</i>	<i>I (00) 83</i>	<i>5.4</i>
<i>Atatür and Pamir</i>	<i>v. Turkey</i>	<i>I (00) 84</i>	<i>1 Prot. 1</i>
Ainsworth	v. United Kingdom	I (00) 85	6 par. 1
De Cantelar	v. France	I (00) 86	6 par. 1
Hermant	v. France	I (00) 87	6 par. 1
D'Amico Heidi and Salvatore	v. Switzerland	I (00) 88	6 par. 1

#### P.B. v. Switzerland

Application No. 27613/95

##### **Interim Resolution DH (00) 83, 29 May 2000**

The applicant complained that the decision on the lawfulness of his psychiatric detention was not taken speedily.

The Committee of Ministers held that there had been in this case a violation of Article 5 para. 4.

#### Atatür and Pamir v. Turkey

Application No. 22907/93

##### **Interim Resolution DH (00) 84, 29 May 2000**

The applicants complained of the authorities' delay in paying additional compensation for compulsory purchase of the applicants' land as well as of the insufficiency of the statutory default interest (30%) intended to compensate for the loss caused by the high level of monetary depreciation.

The Committee of Ministers held that there had been in this case a violation of Article 1 of Protocol No. 1.



## B. Final resolutions (in cases where an interim resolution has already been published)

Case		Resolution	Article(s)
Bechter	v. Austria	(00) 31	6 par. 1
B.B. and G.B.	v. France	(00) 35	6 par. 1
Bouchet	v. France	(00) 36	6 par. 1
M.H.S. & R.S.	v. France	(00) 37	6 par. 1
Pallot	v. France	(00) 38	6 par. 1
Rebai	v. France	(00) 39	6 par. 1
Rouveau	v. France	(00) 40	6 par. 1
<i>Faulkner</i>			
<i>Thomas William v. United Kingdom</i>		(00) 41	6.3.c
Carrara, Antosanti, Pietrotti	v. France	(00) 52	6 par. 1
Gaboriau	v. France	(00) 53	6 par. 1
Gurbuz	v. France	(00) 54	6 par. 1
Savoye	v. France	(00) 55	6 par. 1
S.E.W.	v. Netherlands	(00) 57	6 par. 1
Denev	v. Sweden	(00) 58	6 par. 1

### Faulkner Thomas William v. the United Kingdom

Application No. 28944/95

#### Final Resolution DH (00) 41, 10 April 2000

In Interim Resolution DH (99) 360 (9 June 1999) the Committee of Ministers had decided that there had been a violation of Article 6, paragraph 3.c, on account of the refusal to grant legal aid to the applicant in respect of his appeal against conviction, and decided to make public the report of the European Commission of Human Rights.

In this resolution the Committee of Ministers noted that the Government of the United Kingdom had paid the applicant the total sum of 3 500 pounds sterling as just satisfaction.

## C. "Traditional" resolutions establishing whether or not there has been a violation and supervising the decision

Case		Resolution	Article(s)
<i>R.W.-L.</i> <i>settlement)</i>	v. Austria	(00) 34	6 par. 1 (friendly)
Makriyannis	v. Greece	(00) 56	6 par. 1

### R.W.-L. v. Austria

Application No. 26999/95

#### Resolution DH (00) 34, 10 April 2000

The applicant complained that, in certain criminal proceedings brought against him, the presiding judge made statements which the applicant considered to cast doubt on the judge's impartiality and violated the presumption of innocence. During the examination of the case the Committee of Ministers was informed that, through an exchange of letters dated 5 and 25 June 1999, a friendly settlement had been reached between the Government of the respondent state and the applicant.

In this resolution the Committee of Ministers noted that the Government of Austria had paid the applicant the sum agreed, and had disseminated copies of

the Commission's report to the Austrian Supreme Court, and to the court directly concerned, the Vienna Regional Court. It decided therefore to discontinue its examination of the present case.

## D. "Traditional" resolutions concluding the supervision of a judgment of the European Court of Human Rights

Case		Resolution	Article(s)
Lughofer E. and A.v. Austria		(00) 42	6 par. 1
<i>De Geouffre de la Pradelle</i>			
	v. France	(00) 43	6 par. 1
<i>Canea Catholic Church</i>			
	v. Greece	(00) 44	6 par. 1
Scandella	v. Italy	(00) 45	friendly settlement
Jaffredou	v. France	(00) 59	friendly settlement
Serre	v. France	(00) 60	6 par. 1
Ali	v. Italy	(00) 61	friendly settlement
Bagedda and Delogu			
	v. Italy	(00) 62	friendly settlement
Carrozza	v. Italy	(00) 63	friendly settlement
Emmolo	v. Italy	(00) 64	friendly settlement
Errigo	v. Italy	(00) 65	friendly settlement
Ferrara and De Lorenzo			
	v. Italy	(00) 66	friendly settlement
Francesca	v. Italy	(00) 67	friendly settlement
Franzil	v. Italy	(00) 68	friendly settlement
G.S. IX	v. Italy	(00) 69	friendly settlement
Gatto	v. Italy	(00) 70	friendly settlement
Iuliano	v. Italy	(00) 71	friendly settlement
La Brocca			
and Others	v. Italy	(00) 72	friendly settlement
Macciocchi	v. Italy	(00) 73	friendly settlement
Mangiola	v. Italy	(00) 74	friendly settlement
Passadoro	v. Italy	(00) 75	friendly settlement
Pesoni	v. Italy	(00) 76	friendly settlement
Rossi Anna Maria	v. Italy	(00) 77	friendly settlement
Scaruffi	v. Italy	(00) 78	friendly settlement
Silvestri and Others	v. Italy	(00) 79	friendly settlement
<i>Riera Blume</i> <i>and Others</i>	v. Spain	(00) 80	5.1.c
Crossland	v. United Kingdom	(00) 81	friendly settlement
<i>Hood</i>	v. United Kingdom	(00) 82	5.3 and 5, 6 par. 1
Moore and Gordon	v. United Kingdom	(00) 46	6 par. 1
Smith and Ford	v. United Kingdom	(00) 47	6 par. 1
<i>Scarth</i>	v. United Kingdom	(00) 48	6 par. 1
<i>Tinnelly &amp; Sons Ltd and Others and McElduff and Others</i>	v. United Kingdom	(00) 49	6 par. 1

### De Geouffre de la Pradelle v. France

Application No. 12964/87, judgment of 16 December 1992

#### Resolution DH (00) 43, 10 April 2000

The applicant complained that he had been deprived of his right of access to a court because the administration had not notified in time a designation decision, and also that he had not had an effective remedy. In its judgment (16 December 1992), the Court held that there had been a breach of Article 6 para. 1 and held that it was not necessary also to examine the case

under Article 13; and that the Government of France was to pay the applicant certain sums in respect of damage and costs and expenses.

In this resolution the Committee of Ministers noted that the Government of France had paid the applicant the sums provided for in the judgment and had taken the following measures:

**Appendix to Resolution DH (2000) 43**

**Information provided by the Government of France during the examination of the De Geouffre de la Pradelle case by the Committee of Ministers**

A commentary on the judgment of the European Court of Human Rights may be found in the *Cahiers du CREDHO* (journal published by the Rouen University Research and Study Centre on Human Rights and Humanitarian Law), No. 1 – 1994; the full text of the judgment may be consulted on the Légifrance website ([www.legifrance.gouv.fr](http://www.legifrance.gouv.fr)).

Pursuant to the Court's judgment, the Ministry of the Environment has introduced a new procedure whereby designation orders are systematically published when they do not comprise any specific provisions leading to changes in the state or use of the places in question, so that interested parties can avail themselves fully of the time allowed under Article 49 of the Order of 31 July 1945 for lodging an appeal with the *Conseil d'Etat*.

Decisions to designate sites as places of interest are forwarded systematically by the Prime Minister's Office, after publication in the *Journal officiel*, to the Nature and Landscapes Directorate of the Ministry of Regional Planning and the Environment:

- the Directorate of Nature and Landscapes immediately forwards designation orders to the prefects of the *départements* concerned and asks them to have them posted at the town hall and published in two local newspapers;
- the prefects immediately forward the designation decisions to the mayor of the municipality/municipalities concerned and asks him/her to ensure that they are immediately posted at the town hall and in other appropriate places for one month;
- as well as having the designation posted at the town hall, the prefect of the *département* ensures that an announcement of the decision is published conspicuously in two newspapers, including at least one daily newspaper, distributed in the municipality concerned;
- the Ministry of Regional Planning and Environment always satisfies itself that designation orders have been posted at the *préfecture* and the town hall by asking the prefect concerned to produce certificates to this effect, and that they have been published in the local press by asking the prefect concerned to produce invoices showing the amount charged for having the announcement published in the press.

The Court's judgment has been forwarded to the *Conseil d'Etat*, which has also been informed of the new procedure introduced by the Ministry of Regional Planning and the Environment.

The Government considers that, given the status of the Convention and of the case-law of the European Court of Human Rights in domestic law (see, *inter alia*, *Conseil d'Etat* 14 February 1996 Maubleu, Cass. Soc. 14 January 1999 Bozkurt, Cass. Civ. 28 April 1998 M.G., Cass. Crim. 6 May 1997 Landry), if a dispute similar to that which gave rise to the present case were brought before the *Conseil d'Etat*, the new publication arrangements would certainly be taken into account in considering the admissibility of the application and in computing the time-limits for bringing an appeal, thus ensuring that appellants enjoy a practical, effective right of access to the courts.

The Government of France is of the opinion that it has thus fulfilled its obligations under Article 53 of the Convention.

**Canea Catholic Church v. Greece**

Application No. 25528/94, judgment of 16 December 1997

**Resolution DH (00) 44, 10 April 2000**

The applicant Church complained that the Greek courts' refusal to acknowledge that the Catholic Church in Canea had legal personality amounted to a discriminatory interference with its right of access to a court, its right to respect for its freedom of religion and its right to the peaceful enjoyment of its possessions. In its judgment (16 December 1997) the Court held that there had been a violation of Article 6 para. 1, and of Article 14, taken together with Article 6 para. 1. It held also that the Government of Greece should pay the applicant Church certain sums in respect of pecuniary damage and costs and expenses.

In this resolution the Committee of Ministers noted that the Government of Greece had paid the applicant the sums provided for in the judgment and had taken the following measures:

**Appendix to Resolution DH (2000) 44**

**Information provided by the Government of Greece during the examination of the Canea Catholic Church case by the Committee of Ministers**

As regards the legal personality of the Catholic Church in Greece, Section 13 of the Introductory Law to the Civil Code provides that: "Legal persons that were lawfully constituted at the date of adoption of the Civil Code shall continue to exist. As regards their legal capacity, administration or functioning, the relevant provisions of the Code shall apply". Both the Civil Code and the Introductory Law entered into force on 23 February 1946.

Although this provision had always been interpreted by Greek courts as including the Catholic Church among "legal persons", this interpretation was not followed in the action brought by Canea Catholic Church at the origin of the present case, thus depriving it of access to a court, contrary to the Convention.

In order to implement the European Court's judgment through appropriate individual and general measures, the government obtained the positive vote of the Parliament on a new law containing an interpretative provision according to which: "Among legal persons lawfully constituted at the date of adoption of the Civil Code, and maintained as such by Article 13 of the Civil Code's Introductory Act, are included all establishments of the Catholic Church, founded or operating in Greece before 23 February 1946" (Article 33 of Law No. 2731, which entered into force on 5 July 1999). Thus, the problem of access to the court as well as the broader issue of the legal personality of the Catholic Church in Greece are settled, through an authentic interpretation of the Civil Code's Introductory Act by the national legislator. Moreover, in order to ensure that the interpretation of the laws here at issue respects the Convention, the Court's judgment was transmitted to the Ministry of Justice and to the Ministry of Education and Religious Affairs on 27 January 1997, and it was published in Greek, together with the Commission's report, in the wide-spread legal journal *Diki*, No. 29, 1998, p. 547.

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

## Scarth v. the United Kingdom

Application No. 33745/96, judgment of 22 July 1999

### Resolution DH (00) 48, 10 April 2000

The applicant complained that he had not had a public hearing in certain proceedings for recovery of a debt brought against him. In its judgment (22 July 1999) the Court held that there had been a violation of Article 6 para. 1, and that the finding of a violation constituted sufficient just satisfaction for any non-pecuniary damage suffered by the applicant. It held also that the Government of the United Kingdom was to pay the applicant a specified sum for costs and expenses.

In this resolution the Committee of Ministers noted that the Government of United Kingdom had paid the applicant the sum provided for in the judgment and had taken the following measures:

### Appendix to Resolution DH (2000) 48

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

The Government of the United Kingdom indicated that the legislation in force at the time of the events (Order 19, rule 3 (1), rule 7 (1), (3) and (4) and rule 8 (1) of the County Court Rules 1981) was no longer applicable. Under the Civil Procedure Rules, which came into force on 26 April 1999, hearings, including those in small claims cases, are to be held in public.

The government is of the opinion that there is therefore no risk of a repeat of the breach of the Convention found in the present case and that it has thus fulfilled its obligations under Article 46 of the Convention.

## Tinnelly & Sons Ltd and Others and McElduff and Others v. the United Kingdom

Applications Nos. 20390/92 and 21322/93, judgment of 10 July 1998

### Resolution DH (00) 49, 10 April 2000

The applicant complained that the issuing of a certificate by the Minister rejecting the applicants' tender for a demolition contract for national security reasons amounted to a breach of their right to access to an independent and impartial tribunal in that the conclusive certificate issued by the Minister prevented the courts from dealing with its merits and that this refusal constituted a violation of the right to a good reputation, as protected by Article 8, a violation of the right to an effective remedy, and discrimination on religious grounds. In its judgment (10 July 1998) the Court held that Article 6 para. 1 was applicable in the instant case and had been violated; that it was not necessary to consider the applicants' complaints under Article 6 para. 1 in conjunction with Article 14, and under Article 8 either alone or in conjunction with Article 13. It held also that the Government of the United Kingdom should pay certain sums to Tinnelly and the McElduffs by way of compensation for loss of opportunity, and to Mr Patrick Tinnelly and Mr Gerard Tinnelly in respect of expenses.

In this resolution the Committee of Ministers noted that the Government of United Kingdom had paid the applicants the sums provided for in the judgment and had taken the following measures:

### Appendix to Resolution DH (2000) 49

#### Information provided by the Government of the United Kingdom during the examination of the case of Tinnelly & Sons Ltd and Others and McElduff and Others by the Committee of Ministers

The Government of the United Kingdom informed the Committee of Ministers that on 29 July 1999, the Northern Ireland Act Tribunal (Procedure) Rules 1999 ("the Tribunal Rules") came into force. The Tribunal Rules prescribe the practice and procedure to be followed on appeals to the Tribunal established under section 91 of the Northern Ireland Act 1998 ("Tribunal").

Under the new Act, the absence of an appeal process in relation to the issuing of certificates which was criticised in the judgment of the European Court of Human Rights has been remedied. Under Rule 7 of the Tribunal Rules, an appellant may exercise his right of appeal to the Tribunal by giving notice of an appeal within 14 days of receiving notice that a certificate has been issued.

The certificates in question are those referred to in section 90 of the 1998 Act, Article 80 of the Fair Employment and Treatment (Northern Ireland) Order 1998 (b), Article 53Za of the Sex Discrimination (Northern Ireland) Order 1976 (c) or Article 41A of the Race Relations (Northern Ireland) Order 1997 (d).

According to Rule 3 (1), the Tribunal, when exercising its functions, shall secure that information is not disclosed contrary to the interest of national security, public safety or public order or in any other circumstances where disclosure is likely to harm a public interest.

Lastly, the Government of the United Kingdom informed the Committee of Ministers that the judgment of the European Court had been published in the *European Human Rights Reports* and had been referred to in the *Bulletin of Northern Ireland Law*. All Northern Ireland Office officials responsible for advising the Secretary of State for Northern Ireland on the issuing of certificates which were criticised in the judgment are now aware of the judgment of the European Court.

The Government considers that the measures adopted by the authorities of the United Kingdom prevent any risk of further violations similar to those found in this case and that, consequently, the United Kingdom has complied with its obligations under Article 53 of the Convention in this case.

## Riera Blume and Others v. Spain

Application No. 37680/97, judgment of 14 October 1999

### Resolution DH (00) 80, 29 May 2000

The applicants complained that their transfer by the police to a hotel and their restriction to this hotel from 20 to 30 June 1984, following a preliminary investigation against their "sect", had constituted an unlawful deprivation of liberty and that the "de-programming" they were subjected to during their detention constituted a breach of their right to freedom of thought, conscience and religion. In its judgment (14 October 1999) the Court held that there had been a violation of Article 5 para. 1, and that it was unnecessary to examine separately the complaint based on Article 9. It held also that the respondent state was to pay each of the six applicants whose applications had been declared admissible certain sums for non-pecuniary damage and for costs and expenses to the applicants jointly.

In this resolution the Committee of Ministers noted that the Government of Spain had paid the applicants the sums provided and indicated that the Court's

judgment had been published in the *Boletín de Información del Ministerio de Justicia* and sent out to the authorities directly concerned.

## Hood v. the United Kingdom

Application No. 27267/95, judgment of 18 February 1999

### Resolution DH (00) 82, 29 May 2000

The applicant complained that he had not been brought promptly before a judge or other officer authorised by law to exercise judicial power; that he had had available to him no procedure complying with Article 5 para. 4 permitting him to challenge his continuing detention; that he had no enforceable right to compensation or effective domestic remedy in those respects; and that he had been denied a fair and public hearing by an independent and impartial tribunal established by law. In its judgment (18 February 1999) the Court held that there had been a violation of Article 5 para. 3; that there had been no violation of Article 5 para. 4; that there had been a violation of Article 5 para. 5; that it was not necessary also to consider the case under Article 13; that there had been a violation of Article 6 para. 1; and by sixteen votes to one that the present judgment constituted in itself sufficient just satisfaction for any non-pecuniary damage suffered by the applicant. It held also that the Government of the United Kingdom was to pay the applicant a certain sum in respect of costs and expenses.

In this resolution the Committee of Ministers noted that the Government of the United Kingdom had paid the applicant a certain sum for in the judgment and had taken the following measures:

### Appendix to Resolution DH (2000) 82

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

The Government of the United Kingdom recalled that the provisions in the Army Act 1955, which set out the proce-

cedure for courts-martial, were amended by the Armed Forces Act 1996, which entered into force on 1 April 1997 (see Resolutions DH (98) 11 in the case of *Coyne v. the United Kingdom*, judgment of the European Court of Human Rights of 24 September 1997, and DH (98) 12 in the case of *Findlay v. the United Kingdom*, judgment of the European Court of Human Rights of 25 February 1997).

Under the new Act, the role of the convening officer has ceased to exist and its functions are henceforth divided amongst three different bodies: the "higher authority", the "prosecuting authority" and "court administration officers".

The deficiencies identified in the Army's system of detention before trial have been remedied by Regulations 20 to 24 of the Investigation and Summary Dealing (Army) Regulations of 1997, which also came into force on 1 April 1997 (subsequent to the arrest and detention of the applicant). These regulations provide the procedure to be followed by the commanding officer when investigating a charge against an accused person or when deciding on the continued detention of an accused person. They also deal with review proceedings by higher authorities or by commanding officers.

In particular, Regulation 20 requires that, when a commanding officer investigates a charge against an accused person in accordance with Section 76 (1) of the Act, he shall have the accused brought before him and inform him whether he is to be detained under open or close arrest; of the reason why he is to be detained; that an officer of his choice shall, if available and willing to act, be appointed to assist him, and that if he does not so choose, or if the officer so chosen is unavailable, an officer shall be nominated to assist him, unless he states in writing that he does not wish the assistance of an officer; and that he may apply in writing to his commanding officer's immediate higher authority giving his reasons why he believes he should be released from close arrest to open arrest, or from any form of arrest, asking a higher authority to review the decision to detain him in arrest.

Finally, a right of appeal against sentence, only before the (civilian) Courts-Martial Appeal Court, has been added to the existing right of appeal against conviction.

The Government of the United Kingdom is of the opinion that the measures adopted will prevent new violations similar to those found in this case and that, therefore, the United Kingdom has complied with its obligations under Article 46, paragraph 1, of the Convention.



## B. European Social Charter

### 1. State of signatures and ratifications of the Charter and its protocols at 30 June 2000

Member states	European Social Charter		Additional Protocol		Protocol amending the European Social Charter		“Collective Complaints” Protocol		European Social Charter (Revised)	
	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified	Signed	Ratified
<b>Albania</b>	—	—	—	—	—	—	—	—	21/09/98	—
<b>Andorra</b>	—	—	—	—	—	—	—	—	—	—
<b>Austria</b>	22/07/63	29/10/69	04/12/90	—	07/05/92	13/07/95	07/05/99	—	07/05/99	—
<b>Belgium</b>	18/10/61	16/10/90	20/05/92	—	22/10/91	**	14/05/96	—	03/05/96	—
<b>Bulgaria</b>	—	—	—	—	—	—	—	(1)	21/09/98	07/06/00
<b>Croatia</b>	08/03/99	—	08/03/99	—	08/03/99	—	08/03/99	—	—	—
<b>Cyprus</b>	22/05/67	07/03/68	05/05/88	—	21/10/91	01/06/93	09/11/95	06/08/96	03/05/96	—
<b>Czech Republic*</b>	27/05/92	03/11/99	27/05/92	17/11/99	27/05/92	17/11/99	—	—	—	—
<b>Denmark</b>	18/10/61	03/03/65	27/08/96	27/08/96	—	**	09/11/95	—	03/05/96	—
<b>Estonia</b>	—	—	—	—	—	—	—	—	04/05/98	—
<b>Finland</b>	09/02/90	29/04/91	09/02/90	29/04/91	16/03/92	18/08/94	09/11/95	17/07/98	03/05/96	—
<b>France</b>	18/10/61	09/03/73	22/06/89	—	21/10/91	24/05/95	09/11/95	07/05/99	03/05/96	07/05/99
<b>Georgia</b>	—	—	—	—	—	—	—	—	30/06/00	—
<b>Germany</b>	18/10/61	27/01/65	05/05/88	—	—	**	—	—	—	—
<b>Greece</b>	18/10/61	06/06/84	05/05/88	18/06/98	29/11/91	12/09/96	18/06/98	18/06/98	03/05/96	—
<b>Hungary</b>	13/12/91	08/07/99	—	—	13/12/91	—	—	—	—	—
<b>Iceland</b>	15/01/76	15/01/76	05/05/88	—	—	**	—	—	04/11/98	—
<b>Ireland</b>	18/10/61	07/10/64	—	—	14/05/97	14/05/97	—	—	—	—
<b>Italy</b>	18/10/61	22/10/65	05/05/88	26/05/94	21/10/91	27/01/95	09/11/95	03/11/97	03/05/96	05/07/99
<b>Latvia</b>	29/05/97	—	29/05/97	—	29/05/97	—	—	—	—	—
<b>Liechtenstein</b>	09/10/91	—	—	—	—	—	—	—	—	—
<b>Lithuania</b>	—	—	—	—	—	—	—	—	08/09/97	—
<b>Luxembourg</b>	18/10/61	10/10/91	05/05/88	—	21/10/91	**	—	—	11/02/98	—
<b>Malta</b>	26/05/88	04/10/88	—	—	21/10/91	16/02/94	—	—	—	—
<b>Moldova</b>	—	—	—	—	—	—	—	—	03/11/98	—
<b>Netherlands</b>	18/10/61	22/04/80	14/06/90	05/08/92	21/10/91	01/06/93	—	—	—	—
<b>Norway</b>	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/03/97	20/03/97	—	—
<b>Poland</b>	26/11/91	25/06/97	—	—	18/04/97	25/06/97	—	—	—	—
<b>Portugal</b>	01/06/82	30/09/91	—	—	24/02/92	08/03/93	09/11/95	20/03/98	03/05/96	—
<b>Romania</b>	04/10/94	—	—	—	—	—	—	—	14/05/97	07/05/99
<b>Russia</b>	—	—	—	—	—	—	—	—	—	—
<b>San Marino</b>	—	—	—	—	—	—	—	—	—	—
<b>Slovakia*</b>	27/05/92	22/06/98	27/05/92	22/06/98	27/05/92	22/06/98	18/11/99	—	18/11/99	—
<b>Slovenia</b>	11/10/97	—	11/10/97	—	11/10/97	—	11/10/97	(1)	11/10/97	07/05/99
<b>Spain</b>	27/04/78	06/05/80	05/05/88	24/01/00	21/10/91	24/01/00	—	—	—	—
<b>Sweden</b>	18/10/61	17/12/62	05/05/88	05/05/89	21/10/91	18/03/92	09/11/95	29/05/98	03/05/96	29/05/98
<b>Switzerland</b>	06/05/76	—	—	—	—	—	—	—	—	—
<b>“The former Yugoslav Republic of Macedonia”</b>	05/05/98	—	05/05/98	—	05/05/98	—	—	—	—	—
<b>Turkey</b>	18/10/61	24/11/89	05/05/98	—	—	**	—	—	—	—
<b>Ukraine</b>	02/05/96	—	—	—	—	—	—	—	07/05/99	—
<b>United Kingdom</b>	18/10/61	11/07/62	—	—	21/10/91	**	—	—	07/11/97	—

\* = Date of signature by the Czech and Slovak Federal Republic.

\*\* = State whose ratification is necessary for the entry into force of the protocol.

(1) = Party to the European Social Charter (revised) (ETS 163) which has accepted the procedure provided for in this Protocol (ETS 163, Article D).

## 2. Reservations and declarations

### European Social Charter (revised)

#### *Bulgaria*

*Declarations contained in the instrument of ratification deposited on 7 June 2000 – Or. Eng.*

In accordance with Part III, Article A, paragraph 1, of the Charter, the Republic of Bulgaria declares the following:

1. The Republic of Bulgaria considers Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means both national and international in character, as stated in the introductory paragraph of that Part.
2. The Republic of Bulgaria considers itself bound by the following Articles of Part II of the Charter:
  - article 1
  - article 2, paragraphs 2, 4-7
  - article 3
  - article 4, paragraphs 2-5
  - articles 5, 6, 7, 8, 11
  - article 12, paragraphs 1 and 3
  - article 13, paragraphs 1-3
  - articles 14, 16
  - article 17, paragraph 2
  - article 18, paragraph 4,
  - articles 20, 21, 22, 24, 25, 26
  - article 27, paragraphs 2 and 3
  - articles 28 and 29.
3. In accordance with Part IV, Article D, paragraph 2, of the Charter, the Republic of Bulgaria accepts the supervision of its obligations under this Charter following the procedure provided in the Additional Protocol to the European Social Charter providing for a system of collective complaints of 9 November 1995.

## 3. Activities of the European Committee of Social Rights

### European Committee of Social Rights

#### *Supervision based on national reports*

At its 169th (22-26 May 2000) and 170th (26-30 June 2000) sessions, the European Committee of Social Rights (hereinafter ECSR) examined the reports of the 5 states whose conclusions were not included in the Conclusions XV-1 due to the late submission of reports. It adopted its conclusions on compliance with the provisions of the hard core of the Charter by Ireland, the Netherlands and Poland, which are public and available on the Internet. The conclusions for Germany and Luxembourg will be adopted in September.

#### Collective complaints procedure

The following cases are presently under examination:

**European Federation of Employees in Public Services v. France No. 2/1999**

**European Federation of Employees in Public Services v. Italy No. 4/1999**

**European Federation of Employees in Public Services v. Portugal No. 5/1999**

The complaints relate to Charter Articles 5 (the right to organise) and 6 (the right to bargain collectively). They allege that the armed forces are denied these rights.

The ECSR declared the complaints admissible on 10 February 2000. It has decided to organise a hearing on the subject of the three complaints in the near future.

**Syndicat national des professions du tourisme v. France No. 6/1999**

The complaint relates to Articles 1 para. 2 (prohibition against all forms of discrimination in access to employment), 10 (the right to vocational training) and E (non-discrimination) of the revised Charter. It alleges discrimination in access to work and vocational training for guide-interpreters and national lecturers.

The ECSR declared the complaint admissible on 10 February 2000.

**International Federation of Human Rights Leagues v. Greece No. 7/2000**

The complaint relates to Article 1 para. 2 (prohibition of forced labour) of the Charter. It alleges that a number of legislative provisions and regulations do not respect the prohibition of forced labour.

The ECSR declared the complaint admissible on 28 June 2000.

**Quaker Council for European Affairs v. Greece No. 8/2000**

The complaint relates to Article 1 para. 2 of the Charter (prohibition of forced labour). It claims that the practical application of the law allowing conscientious objectors to perform alternative work instead of military service does not comply with the prohibition of forced labour.

The ECSR declared the complaint admissible on 28 June 2000.

**Confédération Française de l'Encadrement v. France No. 9/2000**

The complaint concerns Articles 2 (the right to just conditions of work), 4 (the right to fair remuneration), 6 (the right to collective bargaining including the right to strike) and 27 of the revised Charter (the right of workers with family responsibilities to equal opportunities and equal treatment). It alleges that the provisions relating to the working hours of managerial employees contained in the second Act on the reduction of working hours (Act No. 2000-37 of 19 January 2000 – “*loi Aubry n° 2*”) constitute a breach of these articles.

The complaint was registered on 20 June 2000.

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

### 1. State of signatures and ratifications of the Convention and its protocols at 30 June 2000

Member states	Convention		Protocol No. 1		Protocol No. 2	
	<i>Signed</i>	<i>Ratified</i>	<i>Signed</i>	<i>Ratified</i>	<i>Signed</i>	<i>Ratified</i>
<b>Albania</b>	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96	02/10/96
<b>Andorra</b>	10/09/96	06/01/97	04/11/99	**	04/11/99	**
<b>Austria</b>	26/11/87	06/01/89	04/11/93	30/04/96	04/11/93	30/04/96
<b>Belgium</b>	26/11/87	23/07/91	04/11/93	12/09/96	04/11/93	12/09/96
<b>Bulgaria</b>	30/09/93	03/05/94	04/03/97	27/10/97	04/03/97	27/10/97
<b>Croatia</b>	06/11/96	11/10/97	10/05/00	**	10/05/00	**
<b>Cyprus</b>	26/11/87	03/04/89	02/02/94	10/09/97	02/02/94	10/09/97
<b>Czech Republic*</b>	23/12/92	07/09/95	28/04/95	07/09/95	28/04/95	07/09/95
<b>Denmark</b>	26/11/87	02/05/89	04/11/93	26/04/94	04/11/93	26/04/94
<b>Estonia</b>	28/06/96	06/11/96	28/06/96	06/11/96	28/06/96	06/11/96
<b>Finland</b>	16/11/89	20/12/90	04/11/93	04/11/93	04/11/93	04/11/93
<b>France</b>	26/11/87	09/01/89	04/11/93	19/08/98	04/11/93	14/08/96
<b>Georgia</b>	16/02/00	20/06/00	16/02/00	20/06/00	16/02/00	20/06/00
<b>Germany</b>	26/11/87	21/02/90	04/11/93	13/12/96	04/11/93	13/12/96
<b>Greece</b>	26/11/87	02/08/91	04/11/93	29/06/94	04/11/93	29/06/94
<b>Hungary</b>	09/02/93	04/11/93	04/11/93	04/11/93	04/11/93	04/11/93
<b>Iceland</b>	26/11/87	19/06/90	08/09/94	29/06/95	08/09/94	29/06/95
<b>Ireland</b>	14/03/88	14/03/88	10/04/96	10/04/96	10/04/96	10/04/96
<b>Italy</b>	26/11/87	29/12/88	30/10/96	08/03/99	30/10/96	08/03/99
<b>Latvia</b>	11/09/97	10/02/98	11/09/97	10/02/98	11/09/97	10/02/98
<b>Liechtenstein</b>	26/11/87	12/09/91	04/11/93	05/05/95	04/11/93	05/05/95
<b>Lithuania</b>	14/09/95	26/11/98	14/09/95	26/11/98	14/09/95	26/11/98
<b>Luxembourg</b>	26/11/87	06/09/88	04/11/93	20/07/95	04/11/93	20/07/95
<b>Malta</b>	26/11/87	07/03/88	04/11/93	04/11/93	04/11/93	04/11/93
<b>Moldova</b>	02/05/96	02/10/97	02/10/97	02/10/97	02/10/97	02/10/97
<b>Netherlands</b>	26/11/87	12/10/88	05/05/94	23/02/95	05/05/94	23/02/95
<b>Norway</b>	26/11/87	21/04/89	04/11/93	04/11/93	04/11/93	04/11/93
<b>Poland</b>	11/07/94	10/10/94	11/01/95	24/03/95	11/01/95	24/03/95
<b>Portugal</b>	26/11/87	29/03/90	03/06/94	20/03/98	03/06/94	03/02/00
<b>Romania</b>	04/11/93	04/10/94	04/11/93	04/10/94	04/11/93	04/10/94
<b>Russia</b>	28/02/96	05/05/98	28/02/96	05/05/98	28/02/96	05/05/98
<b>San Marino</b>	16/11/89	31/01/90	04/11/93	05/12/96	04/11/93	05/12/96
<b>Slovakia*</b>	23/12/92	11/05/94	07/03/94	11/05/94	07/03/94	11/05/94
<b>Slovenia</b>	04/11/93	02/02/94	31/03/94	16/02/95	31/03/94	16/02/95
<b>Spain</b>	26/11/87	02/05/89	21/02/95	08/06/95	21/02/95	08/06/95
<b>Sweden</b>	26/11/87	21/06/88	07/03/94	07/03/94	07/03/94	07/03/94
<b>Switzerland</b>	26/11/87	07/10/88	09/03/94	09/03/94	09/03/94	09/03/94
<b>“The former Yugoslav Republic of Macedonia”</b>	14/06/96	06/06/97	14/06/96	06/06/97	14/06/96	06/06/97
<b>Turkey</b>	11/01/88	26/02/88	10/05/95	17/09/97	10/05/95	17/09/97
<b>Ukraine</b>	02/05/96	05/05/97	26/01/98	**	26/01/98	**
<b>United Kingdom</b>	26/11/87	24/06/88	09/12/93	11/04/96	09/12/93	11/04/96

\* = Date of signature of the convention by the Czech and Slovak Federal Republic.

\*\* = State whose ratification is necessary for the entry into force of the protocol.

## 2. Reservations and declarations

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

#### Georgia

*Declaration contained in a Note Verbale from the Minister of Foreign Affairs of Georgia, dated 24 May 2000, handed to the Secretary General at the time of deposit of the instrument of ratification, on 20 June 2000 – Or. Eng.*

Georgia declares that it will not be responsible for violations of the provisions of the Convention and the safety of the members of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment on the territories of Abkhazia and the Tskhinval region until the territorial integrity of Georgia is restored and full and effective control over these territories is exercised by the legitimate authorities.

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

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was set up under the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. It is composed of persons from a variety of backgrounds: lawyers, medical doctors, prison experts, persons with parliamentary experience, etc. The CPT's task is to examine the treatment of persons deprived of their liberty. For this purpose, it is entitled to visit any place where such persons are held by a public authority; apart from periodic visits, the Committee also organises visits which appear to it to be required in the circumstances (i.e. *ad hoc* visits). The CPT may formulate recommendations to strengthen, if necessary, the protection of persons deprived of their liberty against torture and inhuman or degrading treatment or punishment.

Between 1 March and 30 June 2000 the CPT carried out visits to the following places and published the following reports:

#### Visits

##### Cyprus

(22-30 May 2000)

During this third visit to Cyprus, the delegation visited: 17 police establishments, Nicosia Central Prisons and Athalassa Psychiatric Hospital.

##### France

(14-26 May 2000)

During this fifth visit to France, the delegation visited: 5 prisons, 14 police establishments, 2 *Gendar-*

*merie* establishments, 1 holding facility of the Customs Administration, 2 health establishments.

##### Poland

(8-19 May 2000)

During this second visit to Poland, the delegation visited: 16 police establishments, 6 border guard establishments, 4 prisons, 1 psychiatric establishment, sobering-up centres and other establishments.

##### Russian Federation

(20-27 April 2000)

This visit, the 100th by the CPT and the second visit to the North Caucasus, followed up issues examined during the Committee's first visit (26 February to 4 March 2000) on the treatment of persons deprived of their liberty in the Chechen Republic. The preliminary observations made by the CPT's delegation at the end of the first visit to the North Caucasian region were published on 3 April 2000, at the request of the Russian authorities.

### Publication of CPT reports

*Under Article 11 of the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, the information gathered by the Committee in relation to a visit, its report and its consultations with the State concerned are confidential. However, the State may agree to lift the rule of confidentiality.*

The **Spanish** Government decided to make public the reports of the CPT on its visits to Spain from 17 to 18 January 1997 and from 22 November to 4 December 1998, and of the Government's responses. (CPT/Inf (2000) 3, CPT/Inf (2000) 4, CPT/Inf (2000) 5 and CPT/Inf (2000) 6).

The **United Kingdom** Government decided to make public the Government's response to the report drawn up by the CPT after its visit to the United Kingdom and the Isle of Man in 1997. (CPT/Inf (2000) 7).

The **Irish** Government decided to make public its follow-up report in response to the report drawn up by the CPT after its visit to Ireland in 1998. (CPT/Inf (2000) 8)

The authorities of the Kingdom of the **Netherlands** decided to make public the report of the CPT on its visit to the Netherlands Antilles in January 1999, and the response of the Government of the Netherlands Antilles. (CPT/Inf (2000) 9 and 10).

*CPT documents are available from the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, Council of Europe, F-67075 Strasbourg Cedex or on the CPT's Internet site (new addresses): <http://www.cpt.coe.int>, [cptdoc@coe.int](mailto:cptdoc@coe.int).*



#### 4. Members of the CPT at 30 June 2000 by order of precedence

Mrs Silvia Casale	<i>British President</i>
Mrs Ingrid Lycke Ellingsen	<i>Norwegian 1st Vice-President</i>
Mr Volodymyr Yevintov	<i>Ukrainian 2nd Vice-President</i>
Mr Arnold Oehry	<i>Liechtensteiner</i>
Mr Leopoldo Torres Boursault	<i>Spanish</i>
Mr Safa Reisoğlu	<i>Turkish</i>
Mr Ivan Zakine	<i>French</i>
Mrs Gisela Perren-Klingler	<i>Swiss</i>
Mr John Olden	<i>Irish</i>
Mr Florin Stănescu	<i>Romanian</i>
Mr Mario Benedettini	<i>San Marinese</i>
Mrs Jagoda Poloncová	<i>Slovakian</i>
Mrs Christina Doctare	<i>Swedish</i>
Mr Adam Łaptaś	<i>Polish</i>
Mr Zdenek Hájek	<i>Czech</i>
Mrs Emilia Drumeva	<i>Bulgarian</i>
Mr Pieter Reinhard Stoffelen	<i>Dutch</i>
Mr Ole Vedel Rasmussen	<i>Danish</i>
Mrs Renate Kicker	<i>Austrian</i>
Mr Pierre Schmit	<i>Luxemburger</i>
Mr Andres Lehtmets	<i>Estonian</i>
Mr Davor Strinović	<i>Croatian</i>
Mr Aurel Kistruga	<i>Moldovan</i>
Mr Rudolf Schmuck	<i>German</i>
Mr Aleš Butala	<i>Slovene</i>
Mr Yuri Kudryavtsev	<i>Russian</i>
Mrs Veronica Pimenoff	<i>Finnish</i>
Ms Maria Teresa Pizarro Beleza	<i>Portuguese</i>
Mr Fatmir Braka	<i>Albanian</i>
Mr Nikola Matovski	<i>citizen of "the Former Yugoslav Republic of Macedonia"</i>
Mr Petros Michaelides	<i>Cypriot</i>
Mr Marc Nève	<i>Belgian</i>
Mr Eugenijus Gefenas	<i>Lithuanian</i>
Mr Antoni Aleix Camp	<i>Andorran</i>
Mr Mario Felice	<i>Maltese</i>

## D. Framework Convention for the Protection of National Minorities

### I. State of signatures and ratifications of the convention at 30 June 2000

Member states	Framework Convention		First report	
	Signed	Ratified	date due	date received
Albania	29/06/95	28/09/99	01/01/00	
Andorra				
Austria	01/02/95	31/03/98	01/07/99	
Belgium				
Bulgaria	09/10/97	07/05/99	01/09/00	
Croatia	06/11/96	11/10/97	01/02/99	16/03/99
Cyprus	01/02/95	04/06/96	01/02/99	12/02/99
Czech Republic	28/04/95	18/12/97	01/04/99	01/04/99
Denmark	01/02/95	22/09/97	01/02/99	06/05/99
Estonia	02/02/95	06/01/97	01/02/99	22/12/99
Finland	01/02/95	03/10/97	01/02/99	16/02/99
France				
Georgia	21/01/00			
Germany	11/05/95	10/09/97	01/02/99	
Greece	22/09/97			
Hungary	01/02/95	25/09/95	01/02/99	21/05/99
Iceland	01/02/95			
Ireland	01/02/95	07/05/99	01/09/00	
Italy	01/02/95	03/11/97	01/03/99	03/05/99
Latvia	11/05/95			
Liechtenstein	01/02/95	18/11/97	01/03/99	03/03/99
Lithuania	01/02/95	<b>23/03/00</b>		
Luxembourg	20/07/95			
Malta	11/05/95	10/02/98	01/06/99	27/07/99
Moldova	13/07/95	20/11/96	01/02/99	
Netherlands	01/02/95			
Norway	01/02/95	17/03/99	01/07/00	
Poland	01/02/95			
Portugal	01/02/95			
Romania	01/02/95	11/05/95	01/02/99	24/06/99
Russia	28/02/96	21/08/98	01/12/99	<b>08/03/00</b>
San Marino	11/05/95	05/12/96	01/02/99	03/02/99
Slovakia	01/02/95	14/09/95	01/02/99	04/05/99
Slovenia	01/02/95	25/03/98	01/07/99	
Spain	01/02/95	01/09/95	01/02/99	
Sweden	01/02/95	09/02/00		
Switzerland	01/02/95	21/10/98	01/02/00	
“The former Yugoslav Republic of Macedonia”	25/07/96	10/04/97	01/02/99	
Turkey				
Ukraine	15/09/95	26/01/98	01/05/99	02/11/99
United Kingdom	01/02/95	15/01/98	01/05/99	26/07/99
Non-member state	Framework Convention		First report	
Armenia	25/07/97	20/07/98	01/11/99	
Azerbaijan	Accession	<b>26/06/00</b>		
Bosnia-Herzegovina	Accession	24/02/00	01/06/01	

*The Framework Convention is open for signature by the member states and by any other state so invited by the Committee of Ministers.*

## 2. Reservations and declarations

### Azerbaijan

*Declaration contained in the instrument of accession deposited on 26 June 2000 – Or. Eng.*

The Republic of Azerbaijan, confirming its adherence to the universal values and respecting human rights and fundamental freedoms, declares that the ratification of the Framework Convention for the Protection of National Minorities and implementation of its provisions do not imply any right to engage in any activity violating the territorial integrity and sovereignty, or internal and international security of the Republic of Azerbaijan.

## E. European Convention on Transfrontier Television

### 1. State of signatures and ratifications of the Convention at 30 June 2000

Member states	Convention	
	Signed	Ratified
Albania	02/07/99	
Andorra		
Austria	05/05/89	07/08/98
Belgium		
Bulgaria	20/05/97	03/03/99
Croatia	07/05/99	
Cyprus	03/06/91	10/10/91
Czech Republic	07/05/99	
Denmark		
Estonia	09/02/99	24/01/00
Finland	26/11/92	18/08/94
France	12/02/91	21/10/94
Georgia		
Germany	09/10/91	22/07/94
Greece	12/03/90	
Hungary	29/01/90	02/09/96
Iceland		
Ireland		
Italy	16/11/89	12/02/92
Latvia	28/11/97	26/06/98
Liechtenstein	05/05/89	12/07/99
Lithuania	20/02/96	
Luxembourg	05/05/89	
Malta	26/11/91	21/01/93
Moldova	03/11/99	
Netherlands	05/05/89	
Norway	05/05/89	30/07/93
Poland	16/11/89	07/09/90
Portugal	16/11/89	
Romania	18/03/97	
Russia		
San Marino	05/05/89	31/01/90
Slovakia	11/09/96	20/01/97
Slovenia	18/07/96	29/07/99
Spain	05/05/89	19/02/98
Sweden	05/05/89	
Switzerland	05/05/89	09/10/91
“The former Yugoslav Republic of Macedonia”		
Turkey	07/09/92	21/01/94
Ukraine	14/06/96	
United Kingdom	05/05/89	09/10/91

Non-member state	Convention	
	Signed	Ratified
Holy See	17/09/92	07/01/93

*The Convention is open for signature by the member states, by other States Party to the European Cultural Convention, and by the European Economic Community.*

For other activities concerning the Media Section, see Part II.C, Directorate General of Human Rights.

## II. Other human rights activities of the Council of Europe

### A. Committee of Ministers

#### Recommendations to member states

##### **Right of journalists not to reveal their sources of information**

*Recommendation No. R (2000) 7, 8 March 2000*

The recommendation is intended to encourage member states to apply Article 10 of the European Convention on Human Rights on freedom of expression, taking particular account of the judgment given by the European Court of Human Rights in 1996 in the *Goodwin* case.

The seizure of written materials, the searching of journalists' offices, or the monitoring of their communications may all constitute violations of the right recognised in the *Goodwin* judgment. Journalists should benefit from extended protection, allowing them to publish freely information received from confidential sources.

The recommendation is adopted as part of the Committee of Ministers' responsibility for ensuring the observance of commitments entered into by member states in the area of freedom of expression.

*The complete text may be consulted on the Committee of Ministers' Internet site at <http://www.coe.fr/cm/ta/rec/2000/2000r7.htm/>.*

##### **Temporary protection in the case of large-scale influx of refugees**

*Recommendation No. R (2000) 9, 3 May 2000*

The Committee of Ministers asks member states confronted by large numbers of refugees to provide for reception facilities and temporary protection – without prejudice to normal measures applicable to refugees – for the duration of the exceptional circumstances that have caused the influx. The recommendation would be applicable in situations similar to those seen in Bosnia-Herzegovina and Kosovo recently.

It is the first multilateral legal text adopted in the field of temporary protection. It specifies that for their own safety, persons should be admitted into the first country where they seek refuge, with a minimum of

formalities. This should not constitute an obstacle to their seeking asylum at a later stage in a third country.

Registration of those to whom this protection is afforded should be carried out rapidly. Their freedom of movement within the host country should not be unnecessarily limited. They should have access to adequate means of subsistence, including accommodation, appropriate health care, education for their children, and the right to work, in accordance with national legislation.

The recommendation envisages co-operation between states to prepare them better for states of emergency and to facilitate the international response to situations of sudden and massive influx. States confronted with such situations will be able to request a rapid consultation from the Committee of Ministers.

*The full text may be consulted on the Committee of Ministers' Internet site at <http://www.coe.fr/cm/ta/rec/2000/2000r9.htm/>.*

##### **Codes of conduct for public officials**

*Recommendation No. R (2000) 10, 11 May 2000*

The Committee of Ministers recommends that member states promote, within the limits of their national legislation and the principles governing the public service, the adoption of national codes of conduct for public officials. The model code of conduct appended to the recommendation could serve as a basis.

*The full text may be consulted on the Committee of Ministers' Internet site at <http://www.coe.fr/cm/ta/rec/2000/2000r10.htm/>.*

##### **Action against trafficking in human beings for the purpose of sexual exploitation**

*Recommendation No. R (2000) 11, 19 May 2000*

The recommendation is the result of work conducted over the past ten years at the Council to try and stem a rising tide of trafficking, which is linked to organised crime and can result in slavery for victims. It is one of the first attempts to co-ordinate action internationally amongst governments with a legal text.

Governments are encouraged to attack the conditions that lead to trafficking by boosting women's social status and economic conditions. Awareness-raising, education and training are stressed, so that both the public and specialists such as social workers and police can understand the issues and act appropriately.

Trafficking should be made a special offence, and courts should have the right to seize assets belonging to convicted traffickers. Victims should receive help, such as giving evidence by video or audio and protection against reprisals. Governments are asked to set up bi-lateral agreements to help victims return to their country of origin if they wish, but also allow temporary residence status on humanitarian grounds if needed.

The recommendation also encourages governments to create close co-operation between social, legal, administrative, police and immigration authorities and NGOs and to get clear information through national and international research.

*As an immediate follow-up to this text, the Council of Europe has organised a seminar on the trade in human beings in south-east Europe, a region widely affected by this phenomenon. The event will be held in partnership with the United Nations High Commission for Human Rights, the OSCE/ODHIR, the International Organization for Migration (IOM), Greece and Japan.*

*The seminar will have the aim of beginning the preparation of a regional action plan and is to take place in Athens from 29 June to 1 July.*

*The full text may be consulted on the Committee of Ministers' Internet site at <http://www.coe.fr/cm/ta/rec/2000/2000r11.htm/>.*

## Committee of Ministers' replies to recommendations and questions of the Parliamentary Assembly

### European Union Charter of Fundamental Rights

#### *Reply to Assembly Recommendation 1439 (2000)*

"The Committee of Ministers shares the concerns expressed by the Assembly in Recommendation 1439 (2000) as well as the principles set out in Resolution 1210 (2000). It recalls that, in the considerations it brought to the attention of the 1996 Intergovernmental Conference of the European Union (IGC), it emphasised that 'human rights protection lies at the heart of the Council of Europe's action', that 'the European Convention on Human Rights must remain an essential reference point, in terms of both rights guaranteed and its judicial mechanism, for the protection of human rights in Europe' and that 'it is in this context that the possibility of the Community's acceding to the Convention and its protocols might be placed'. In this regard, the Committee of Ministers made a reference to the favourable position taken at the time by the Parliamentary As-

sembly and the President of the European Court of Human Rights concerning such accession.

The full text of an intervention made on 7 March 2000 before the Ministers' Deputies' Rapporteur Group on relations between the Council of Europe and the European Union (GR-EU) by the President of the European Court of Human Rights, Dr Luzius Wildhaber, [appears in Appendix I].

Today, the European Union's initiative to draw up a Charter of Fundamental Rights offers the opportunity to improve human rights protection in the European Union framework. This has led to further discussion of the possibility of the Union's accession to the European Convention on Human Rights.

The Council of Europe has been invited to take part in the 'Convention' set up to draw up a draft charter, and it does so through the active participation of two observers: Mr H.-C. Krüger, Deputy Secretary General of the Council of Europe, and Mr M. Fischbach, Judge at the European Court of Human Rights.

In the Committee of Ministers' opinion, it is important to ensure that the European Union may benefit from the Council of Europe's *acquis* in the field of the protection of human rights, including the promotion of social standards. The Committee of Ministers recalls and subscribes to the following remark made by the President of the European Court of Human Rights in the address mentioned above: 'the Court's main concern in the context of this discussion is to avoid a situation in which there are alternative, competing and potentially conflicting systems of human rights protection both within the Union and in the greater Europe. The duplication of protection systems runs the risk of weakening the overall protection offered and undermining legal certainty in this field.'

It is recalled, in this context, that the Committee of Ministers, in the communiqué which it adopted and issued at the end of its 106th Session (Strasbourg, 10-11 May 2000), expressed itself as follows:

'With regard to the proposed European Union Charter of Fundamental Rights, the Ministers underlined the need to ensure that, whatever decisions the Institutions of the Union may take concerning the Charter, it does not lead to new dividing lines in Europe. It should be fully consistent with, and not weaken, the system for the protection of human rights provided, under the European Convention, to all citizens of the Council of Europe's member States, including those of the European Union.'

### Honouring of obligations and commitments by Bulgaria

#### *Reply to Assembly Recommendation 1442 (2000)*

The Committee of Ministers enumerates the measures taken to strengthen its assistance to the Bulgarian authorities within the context of its Programme of Activities for the Consolidation of Democratic Sta-

bility (ADACS), especially in the area of minority rights and the implementation of the European Social Charter.

### **South-east Europe following the Kosovo crisis**

*Reply to Assembly Recommendations 1422, 1423 and 1424 (1999)*

The Committee of Ministers recalls the Council of Europe's involvement in the implementation of the Stability Pact for South-Eastern Europe.

### **Honouring of obligations and commitments by "the former Yugoslav Republic of Macedonia"**

*Reply to Assembly Recommendation 1453 (2000)*

The Committee of Ministers welcomes in particular the major contribution made by the country throughout the Kosovo crisis and the restoration of stability in south-eastern Europe. As regards specific recommendations, the Committee of Ministers wishes to inform the Assembly that, in accordance with paragraph 4.i of Recommendation 1453, it has decided to transmit this recommendation to member states for consideration.

The Committee of Ministers enumerates the measures taken, including contributions to projects within the Stability Pact, mainly concerned with Working Table I "democratic institutions and human rights"; the grant of 2 million ecus approved in April 1999 by the Council of Europe's Development Bank to aid refugees from Kosovo in this country and Albania; and the priority given to ADACS co-operation programmes.

### **International Criminal Court**

*Reply to Assembly Recommendation 1408 (1999)*

The adoption in Rome, in July 1998, of the Statute of the International Criminal Court represents major progress for international criminal law and a significant step forward in the fight against impunity on a global scale, with the establishment of an instrument which should promote the processes of peace and reconciliation, while strengthening effective implementation of international humanitarian law and respect for human rights in a broader sense. The Committee of Ministers welcomes the active contribution of member states to the success of this important initiative.

### **Length of proceedings in Italy**

*Reply to Written Question No. 384*

"The Committee of Ministers shares the concerns expressed by Mr Clerfayt concerning the question of the length of proceedings in Italy. In fact, the Committee of Ministers, like the European Court of Human Rights, has already had occasion to note 'that excessive delays in the administration of justice constitute an

important danger, in particular for the respect of the rule of law' (see Resolution DH (97) 336).

It notes that the concerns expressed in Question No. 384 are also felt by the Italian authorities, including the highest national judicial bodies. Italy has thus already taken many measures since the beginning of the 1990s (for more detail see Resolutions DH (95) 82, DH (97) 336, DH (99) 436 and DH (99) 437) in order to fulfil their obligation to respect the judgments of the Court, in particular by preventing new violations of the Convention similar to those found.

The problem is nonetheless not solved yet: more than 1500 violations of Article 6 have been found since the first judgment which gave Strasbourg an indication of the existence of this problem. The trend in the number of new cases referred to Strasbourg has not changed. The Court considers that the accumulation of breaches of the requirement of 'reasonable time' 'constitutes a circumstance aggravating the violation of Article 6, paragraph 1' (see, for example, the judgment of 11 April 2000 in the Sanna case, paragraph 14).

This situation is overburdening the Court and affects the whole supervisory mechanism.

The Italian Government has undertaken taken several new and highly important structural reforms of a legislative character and is pursuing a process of co-operation and dialogue with the competent sectors of the Council of Europe Secretariat, in order to find rapidly a way out of this major problem of Italian justice. In this respect, it is appropriate to mention in particular that the Italian Judicial Service Commission (*Consiglio superiore della magistratura*) has issued a circular letter dated 15 September 1999 drawing the attention of all national judges to the problem. The Commission intends to visit the Council of Europe on 25 and 26 May 2000. In addition, bilateral meetings with the Ministry of Justice will take place in Rome on 12 and 13 July 2000 in the framework of the Council of Europe's ADACS programme (activities for the development and consolidation of democratic stability).

The Committee of Ministers, for its part, will keep all the Italian cases concerning the length of proceedings on the agenda of its human rights meetings pending the adoption and implementation of satisfactory measures. In so doing, the Committee of Ministers will take all appropriate measures. These could include periodic stocktakings leading to possible further interim resolutions or other decisions indicating the progress in the effective implementation of measures to alleviate the burden of Italian courts and expedite proceedings."

### **106th session of the Committee of Ministers (10-11 May 2000)**

At the Secretary General's invitation, an informal meeting was held on 10 May. At that meeting, the Min-



isters, including the Minister for Foreign Affairs of the Russian Federation, Mr Igor Ivanov, discussed the contribution of the Russian Federation to the Council of Europe and the situation in the North Caucasus.

At the formal session the main subjects of discussion were the enhancement of co-operation between the Council of Europe and the Russian Federation, the situation in the Chechen Republic, Recommendation 1456 of the Parliamentary Assembly adopted on 6 April 2000, and the contribution of the Russian Federation to the Council of Europe. Other subjects included the Council of Europe contribution to the Stability Pact for South-Eastern Europe and the adoption of a message from the Committee of Ministers on Social Development to the Special Session of the United Nations General Assembly (Geneva, 26-30 June 2000).

The Ministers focused on co-operation between the Council of Europe and the Russian Federation in regard to human rights, democratisation and rule of law. They welcomed the contribution of the Russian Federation to the Council of Europe. They agreed to enhance co-operation notably through the ADACS programmes.

The Ministers welcomed the fact that three useful meetings had taken place since January 2000 between the Irish Chairman of the Committee of Ministers and the Minister for Foreign Affairs of the Russian Federation in Moscow, Luxembourg and New York.

They welcomed as constructive the agreement regarding Council of Europe participation in the Office headed by Mr Vladimir Kalamanov, Special Representative of the President of the Russian Federation for ensuring human and civil rights and freedoms in the Chechen Republic. This should become effective at the earliest possible date.

The Ministers took note with appreciation of:

- the holding of the regional seminar under the auspices of the Council of Europe, in Pyatigorsk (27-28 April 2000) on federalism, as well as the planned seminar in Vladikavkaz "on democracy, rule of law and human rights" (30-31 May 2000);
- the announcement of the resumption of the work of the OSCE Assistance Group to Chechnya, while expressing the hope that this resumption will become effective as soon as possible, in accordance with its mandate.

They took note of the fact that the Ambassadors of the European Union Troika had been able to make a recent visit to the Chechen Republic.

The Ministers welcomed the statement made by President Putin on 13 April 2000 that "all facts of violations of human rights and abuses in the course of the anti-terrorist operation in the North Caucasian region of the Russian Federation, whoever commits them, are

thoroughly investigated and, if confirmed, all the rigours of the law will be applied to the guilty".

The Ministers also welcomed:

- the reports made by the Council of Europe Commissioner for Human Rights, Mr Alvaro Gil-Robles, on his visits to the North Caucasus;
- the fact that delegations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had just paid two visits to the North Caucasus and had visited a number of places of detention in the Chechen Republic, including in Chernokozovo. In particular, the Ministers welcomed the publication of the preliminary observations made by the delegation which carried out the first visit. Consultations had been held between the CPT's delegations and the Russian authorities.

The Ministers took note:

- of the Secretary General's correspondence with the Minister for Foreign Affairs of the Russian Federation under Article 52 of the European Convention on Human Rights;
- of the visits of Parliamentary Assembly delegations to the North Caucasus in January and March 2000.

The Ministers discussed co-operation on these issues with the OSCE and the European Union. They expressed their concern regarding alleged human rights violations in the Chechen Republic and underlined the urgency of a satisfactory response to these concerns.

The Ministers took note with interest of the creation by the State Duma of the Russian Federation of the Commission on Human Rights, Displaced Persons and the Normalisation of Social, Political and Economic Situation in the Chechen Republic.

They also noted with interest the establishment of the "National Public Commission for Investigating Crimes and Monitoring Human Rights in the North Caucasus" under the chairmanship of the former Minister of Justice, Mr Krascheninnikov, which was announced on 17 April 2000, and which has received the support of President Putin. The Ministers understood that this national commission of inquiry will:

- be based on the principles of impartiality and independence and take account of international best practice;
- guarantee pluralistic participation embracing representatives of civil society including human rights NGOs and legal experts;
- have the capacity to investigate promptly all alleged violations of human rights committed in the Chechen Republic and the rest of the North Caucasus, in order to establish the truth and identify those responsible, with a view to bringing them to justice, in accordance with the legislation of the

Russian Federation which recognises the primacy of international law;

- have the means to fulfil its mandate effectively.

The Ministers called for the immediate release of all hostages. They were encouraged by the statement by the Minister for Foreign Affairs of the Russian Federation with regard to the holding of a political dialogue and productive negotiations with those who are committed to renounce terrorism and violence with the aim to achieve a peaceful solution to the crisis, and one which fully respects the territorial integrity and the Constitution of the Russian Federation.

At the close of their discussion, the Ministers concluded that steps were being taken by Russia towards meeting concerns of the Council of Europe, including those raised by the Parliamentary Assembly.

The Ministers agreed that the Council of Europe has an important contribution to make, including through its practical assistance, to Russia in the current phase of political and economic reform. This contribution must be on the basis of the fulfilment by Russia of her obligations as a member of the Organisation. The Council of Europe can, in their view, make that contribution only with Russia playing her full part.

The Ministers will keep this question on their agenda and follow developments with the closest attention, also with a view to reporting to the June part-session of the Parliamentary Assembly, as requested in paragraph 24 of Recommendation 1456.

The Ministers welcomed the developments in the implementation of the Stability Pact for South-Eastern Europe. In this context, they noted the wish expressed by Moldova and Ukraine to become full members of the Stability Pact. The Ministers reiterated their support to the Council of Europe substantial contribution to the objectives of the Pact in its fields of competence. They expressed their appreciation for the increasingly active role and specific initiatives taken by the countries of the region participating in the Pact which had drawn up important projects, notably those co-ordinated by the Council of Europe, in the fields of protection of human and minority rights, the democratic institution-building process towards a civic society, local democracy and the fight against corruption. The Ministers gave their support to the projects presented by the Council of Europe to the Stability Pact, notably the awareness-raising Campaign on multi-ethnic society and democratic citizenship, the Action Plan for local democracy and the Programme against corruption and organised crime (PACO).

The Ministers noted that the preliminary results of the Regional Funding Conference of the Stability Pact show that initial funding of a number of Council of Europe projects has been secured. They also called on financial partners to pay special attention to the need to fund Council of Europe projects, in particular

those in key areas of its competence such as the functioning of justice, local democracy and the reform of public administration, taking account of the priorities of the Stability Pact.

The Ministers also took note of and encouraged the ongoing contribution of the Council of Europe to the continued full and rigorous implementation of Resolution 1244 of the United Nations Security Council on Kosovo, Federal Republic of Yugoslavia, in close co-operation with UNMIK and the OSCE. They recognised that there were problems that needed to be addressed as a matter of urgency, including the current unacceptably high level of violence.

The Minister for Foreign Affairs of Italy, Mr Lamberto Dini, briefed Ministers on the priorities of the future Italian Chairmanship. The Ministers also noted the intention of the Chairmanship to visit Moscow, together with the Secretary General, at an early date, as well as its planned visits to Armenia, Azerbaijan, Georgia and Moldova.

The Ministers will hold their next Session on 8-9 November 2000, under the Chairmanship of Italy, after the 50th anniversary of the opening for signature of the European Convention on Human Rights. They expressed their strong support for the efforts of the Italian authorities to ensure that this important anniversary is commemorated appropriately, particularly through the holding of the European Ministerial Conference on Human Rights in Rome on 3-4 November.

In this context, and with regard to the proposed European Union Charter of Fundamental Rights, the Ministers underlined the need to ensure that, whatever decisions the Institutions of the Union may take concerning the Charter, it does not lead to new dividing lines in Europe. It should be fully consistent with, and not weaken, the system for the protection of human rights provided, under the European Convention, to all citizens of the Council of Europe's member States, including those of the European Union.

## Adoption of Protocol No. 12

On 26 June 2000 the Committee of Ministers adopted Protocol No. 12 to the European Convention on Human Rights, which provides for a general prohibition of discrimination. The current non-discrimination provision of the Convention (Article 14) is of a limited kind because it only prohibits discrimination in the enjoyment of one or the other rights guaranteed by the Convention.\* The new protocol removes this limitation

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\* Article 14 : The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.



and guarantees that no-one shall be discriminated against on any ground by any public authority.

Council of Europe Secretary General, Walter Schwimmer, stated: “the adoption of Protocol No. 12 to the European Convention on Human Rights means an important improvement for the legal protection from discrimination at European level. It will contribute not only to the fight against racism and intolerance and to furthering equality between women and men,

but also to eradicating other forms of discrimination. This decision is also both appropriate and timely in this year of the 50th anniversary of the European Convention on Human Rights and of European preparations for the World Conference against Racism.”

The protocol – full text of which appears in Appendix II of the *Bulletin* – will be opened for signature by member states on 4 November 2000 in Rome, on the occasion of the European Ministerial Conference on Human Rights.

## B. Parliamentary Assembly

*The Parliamentary Assembly holds four plenary sessions a year. Its debates on a wide range of social issues and its recommendations to the Committee of Ministers have been at the root of many of the Council of Europe's achievements, including the European Convention on Human Rights and the European Social Charter.*

*It has instituted a special guest status, which has enabled it to play host to representatives of the parliaments of non-member states in central and eastern Europe, paving the way to these countries' accession. It also plays a key role in monitoring compliance with undertakings entered into by states.*

### Human rights situation in member and non-member states

#### Reform of the institutions in Ukraine

*Recommendation 1451 (2000) of 4 April 2000*

The Assembly welcomes a number of positive steps recently taken by the Ukrainian authorities, notably the decision of the Verkhovna Rada to authorise ratification of Protocol No. 6 to the European Convention on Human Rights. However, it expresses its deep concern as regards the so-called "referendum" on reform of the institutions scheduled for 16 April 2000, the modalities and organisation of which remain unclear. The Assembly therefore recommends that the Committee of Ministers seek to ensure that all provisions of the constitution in force in Ukraine are thoroughly respected in the implementation of the referendum results, in particular as regards any procedure aimed at amending the Constitution.

*Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1451.htm>.*

#### Honouring of obligations and commitments by "the former Yugoslav Republic of Macedonia"

*Recommendation 1453 (2000) and Resolution 1213 (2000) of 5 April 2000*

The Assembly is of the opinion that Macedonia has honoured its obligations and most of its commitments and that the remaining commitments are in the

process of being fulfilled. The Assembly therefore considers the current procedure as closed. It will pursue its dialogue with the Macedonian authorities on the issues arising from the obligations of Macedonia as a member state of the Council of Europe.

*Full texts available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1453.htm> and [RES1213.htm](http://stars.coe.fr/ta/ta00/RES1213.htm).*

#### Honouring of obligations and commitments by Albania

*Resolution 1219 (2000) of 28 June 2000*

The Parliamentary Assembly considers that after years of political instability, Albania has made substantial progress in the honouring of its obligations and commitments as a member state. It encourages the Albanian authorities to accelerate the procedures still to be accomplished, among which is the abolition of the death penalty. It is in the light of the forthcoming local and general elections scheduled for October 2000 and June 2001 respectively, and of further legislative and administrative measures taken in the framework of the monitoring procedure, that the Assembly will be able to decide whether Albania can be considered as having honoured its obligations and commitments.

*Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/RES1219.htm>.*

#### Conflict in the Chechen Republic

- *Implementation by the Russian Federation of Recommendation 1444 (2000): Recommendation 1456 (2000) of 6 April 2000*

The Assembly asked the Committee of Ministers to reconsider the Russian Federation's membership of the Council of Europe if it does not introduce an immediate and complete cease-fire and the initiation of a political dialogue without preconditions with the elected Chechen authorities. The Assembly thus appeals to the member states of the Council of Europe to refer to the European Court of Human Rights alleged breaches by the Russian Federation of the provisions of the Convention. The Assembly asked the Committee of Ministers to report at its next parliamentary session either on the action which has been taken to discontinue the Russian Federation's membership or

on the the progress which has in its view made action no longer appropriate.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1456.htm>.

- *Follow-up to Recommendations 1444 (2000) and 1456 (2000): Resolution 1221 (2000) of 29 June 2000*

The Assembly takes note of the reply by the Committee of Ministers to its Recommendation 1456 (2000) (see above) and various elements of information such as Russian Federation President's and the Duma's undertakings to investigate all human rights abuses committed in the North Caucasus region. The Secretary General has commissioned experts in international human rights law to analyse his correspondence with Mr Ivanov, Russian Minister of Foreign Affairs, on the manner in which the Russian Federation's internal law ensures the effective implementation of the European Convention on Human Rights. The experts stated that replies by Mr Ivanov to enquiries by the Secretary General were not adequate and that the Russian Federation had failed in its legal obligation as a Contracting State under Article 52 of the Convention. Since the Assembly considers that the action so far taken by Russia still has to produce convincing and tangible results, the Assembly's recommendations to the Russian Federation must remain fully in force, and, pending more rapid progress, the Assembly repeats its calls for the Committee of Ministers to keep under review the eligibility of the Russian Federation for continued membership of the Council of Europe.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/ERES1221.htm>.

### **Armenia and Azerbaidjan's applications for membership of the Council of Europe**

*Opinions Nos. 221 and 222 (2000) of 28 June 2000*

The Assembly welcomed both countries' applications for membership, stating their ability and willingness to comply with the principles and standards of the Council of Europe.

Full texts available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EOPI221 and 222.htm>.

## **Democracy and legal development**

### **Women's protection**

- *Violence against women in Europe: Recommendation 1450 (2000) of 3 April 2000*

The Parliamentary Assembly denounces various forms of violence against women, such as domestic violence, rape and sexual mutilation, murders committed allegedly to preserve honour, forced marriages, trafficking in women and prostitution. It proposes

various measures to fight against this violence which constitutes a general violation of their rights as human beings.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1450.htm>.

- *Rape in armed conflicts: Resolution 1212 (2000) of 3 April 2000*

The Assembly reiterates its desire to see rape, which continues to be used as a systematic war-crime, treated as a crime against humanity. It proposes, among other measures, to recognise the inalienable right of women who have been raped to undergo voluntary termination of pregnancy if they wish; and proposes also that international humanitarian norms should be applied generously to help rape victims obtain asylum.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/ERES1212.htm>.

- *Mothers and babies in prison: Recommendation 1469 (2000) of 30 June 2000*

Because of the adverse effects of imprisonment of mothers on babies and the fact that the overwhelming majority of women sent to prison are accused of, or convicted of, relatively minor offences, the Assembly recommends, among other measures, that custody for pregnant women and mothers of young children should only ever be used as a last resort for those women convicted of the most serious offences and who represent a danger to the community.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1469.htm>.

- *Follow-up action to the United Nations 4th World Conference on Women (Beijing, 1995): Resolution 1216 (2000) of 27 June 2000*

Five years after the World Conference, the Assembly notes that progress still has to be made in many areas to improve women condition and reduce inequality. It urges the governments of member states to introduce legislative and administrative measures designed to that aim.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/ERES1216.htm>.

### **Children's rights**

- *Setting up a European ombudsman for children: Recommendation 1460 (2000) of 7 April 2000*

The Assembly asks those member states that have not yet done so to appoint a national children's ombudsman, and asks the Council of Europe to create the post of a European Ombudsman.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1460.htm>.

- *Campaign against the enlistment of child soldiers and their participation in armed conflicts: Resolution 1215 (2000) of 7 April 2000*

The Assembly considers that it is the duty of member states to react against the enlistment of child soldiers if they do not wish to see barbarism invade their societies. It proposes a set of measures to be taken to ensure their commitment to that effect.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/ERES1215.htm>.

## Social development

*Second World Summit on Social Development: Recommendation 1463 (2000) of 17 May 2000*

The Assembly fully endorses the Committee of Ministers' initiative of calling on member states, in Recommendation No. R (2000) 3, to recognise the right to the satisfaction of basic material needs of persons in situations of extreme hardship. It believes that more purposeful action is required and that Europeans need effective social rights which are legally enforceable. It invites governments to promote an environment favourable to social development and human promotion as well as the promotion of social cohesion on the basis of human rights and social justice.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1463.htm>.

## Media education

*Recommendation 1466 (2000) of 27 June 2000*

As far as human rights are concerned, the recommendation pinpoints that media by their nature are capable of influencing attitudes and behaviour in society. A critical and discerning attitude towards the media, as understood by the Assembly, should allow people to exercise their right to freedom of expression and right to information and prepare them for democratic citizenship.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1466.htm>.

## Clandestine immigration and the fight against traffickers

*Recommendation 1467 (2000) of 29 June 2000*

The Parliamentary Assembly is deeply concerned by the increasing number of migrants who lose their lives while attempting to enter the territory of the member states illegally or who live in often extremely dangerous and inhuman conditions before, during and after their illegal entry into Europe. It considers that member states should increase their co-operation to effectively combat human trafficking, which is a violation of fundamental human rights, and do their utmost to find ways to stop this modern slavery on their terri-

tory. They should also create greater opportunities for lawful immigration.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1467.htm>.

## Biotechnologies

*Recommendation 1468 (2000) of 29 June 2000*

The Assembly notes that it is increasingly important to include ethical considerations centred on humankind, society and the environment in deliberations regarding developments in biotechnologies. It particularly recommends the Committee of Ministers to ask the relevant steering committees to adopt the precautionary principle as a common tenet of decision-making and to introduce, in co-operation with other relevant organisations, an assessment method for ascertaining whether new technologies in medicine and biology are compatible with fundamental ethical principles, human rights and human dignity. Such a method will entail the introduction of a bioethical labelling procedure based, as a minimum, on the shared principles of non-commercialisation of the human body, individual consent and legitimate use for purposes of human health.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1468.htm>.

## Situation of gays and lesbians and their partners in respect to asylum and immigration

*Recommendation 1470 (2000) of 30 June 2000*

The Assembly is concerned by the fact that immigration policies in most Council of Europe member states discriminate against lesbians and gays. It considers that immigration rules applying to couples should not differentiate between homosexual and heterosexual partnerships. It is aware, furthermore, of a number of documented cases of persecution of homosexuals in their countries of origin and the Assembly recommends that those homosexuals be recognised as refugees instead of being granted leave to stay on humanitarian grounds only.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/EREC1470.htm>.

## Role of parliaments in fighting corruption

*Resolution 1214 (2000) of 5 April 2000*

The Assembly proposes, among various means of fighting corruption, that parliaments safeguard the strength of civil liberties, in particular press freedom and the ability of citizens to form associations for informing the public, including through freedom of information acts, and protect the independence of the judiciary and the media.

Full text available on the Assembly's Internet site at <http://stars.coe.fr/ta/ta00/ERES1214.htm>.

## C. Directorate General of Human Rights

*The Directorate General of Human Rights assists the Committee of Ministers to carry out its functions in the context of the European Convention on Human Rights. It provides secretarial support for bodies established under the European Social Charter, the European Convention for the Prevention of Torture, and the Framework Convention for the Protection of National Minorities.*

*Its activities, either intergovernmental or defined by conventions, cover the fight against racism and intolerance (European Commission against Racism and Intolerance – ECRI), equality between women and men (Steering Committee for Equality between Women and Men – CDEG), media and democracy (Steering Committee on Mass Media – CDMM – and European Convention on Transfrontier Television), human rights awareness – with particular emphasis at present on its programme aimed at the police – and programmes for the development and consolidation of democratic stability (ADACS).*

*A fuller report on the Directorate's activities will appear in Human rights information bulletin No. 51 (No. 50 being dedicated to a commemoration of the 50th anniversary of the European Convention on Human Rights). Meanwhile, information is available on the Internet sites of the Council of Europe.*

### European Social Charter

<http://www.humanrights.coe.int/cseweb/GB/index.htm>

### European Convention for the Prevention of Torture

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

### Framework Convention for the Protection of National Minorities

<http://www.humanrights.coe.int/Minorities/index.htm>

### European Commission against Racism and Intolerance

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

### Equality between women and men, human rights, ADACS

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

## Media

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

**NEW**



The aim of the site is to provide information on the different Council of Europe activities in the field of media law and policy for journalists, lawyers, government officials, non-governmental organisations and all those who are concerned about the free flow of information in Europe.

The site highlights the Council of Europe's activities to promote and guarantee media freedom. Thematic pages present topics such as *media and elections*, *journalistic freedoms* and *self-regulation*, with information on existing standards in this field and current challenges. Among the texts made available with an explanatory note is the Committee of Ministers' recently adopted Recommendation No. R (2000) 7 on



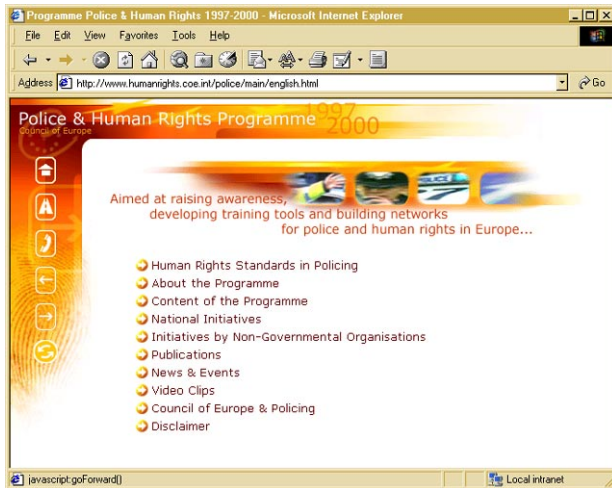
the right of journalists not to disclose their sources of information.

The site contains a list of recent judgments of the European Court of Human Rights under Article 10 of the Convention (freedom of expression).

## Police

**NEW**

<http://www.humanrights.coe.int/police/main/english.html>



The new website is the creation of the Council of Europe's "Police and Human Rights 1997-2000" programme and was made possible by a voluntary contribution from the United Kingdom. The site provides in-depth information about the programme and its activities for police officers, government officials, non-governmental organisations, journalists and members

of the public with an interest in the effective adherence to human rights standards by law enforcement authorities.

The underlying goal of the programme is to promote knowledge of human rights standards among police officers across Europe, particularly the norms which may have important implications for policing, and to encourage development of the practical skills that will enable them to apply these in their daily work. The programme provides the framework within which national and multilateral police and human rights activities can be conducted and works to improve co-operation with and between national police authorities in Europe.

The aims of the "Police and Human Rights 1997-2000" programme are clearly set out in the site, and details of initiatives undertaken by national authorities and non-governmental organisations are also included. Another important focus is human rights training for police. The programme has developed a series of concrete awareness and training tools in several languages and these are all available for downloading.

As an aid for users of the site, articles of particular relevance to policing from the European Convention on Human Rights are explained and to each is added a body of jurisprudence of the European Court of Human Rights, illustrating judicial interpretation in action. The study of these cases is made possible by a link to the case-law of the European Court of Human Rights.

## D. Commissioner for Human Rights



*Alvaro Gil-Robles, elected to the post of Council of Europe Commissioner for Human Rights on 21 September last year, took up his duties on 15 October. His activities to date:*

The first official visit was to Russia (from 29 November to 5 December). The commissioner met representatives of the Russian Government, members of parliament and delegates from NGOs to talk about the situation in Chechnya.

### Recommendations

The commissioner made several recommendations to deal with the hostilities in the region, including: the organisation of a seminar; the ceasing of military operations with the aim of launching a political dialogue between all the forces involved in the Chechnya conflict; and the setting up of a human rights office in the republic. In response to this last recommendation, Vladimir Putin, the Russian President, nominated Vladimir Kalamonov, special representative for human rights in Chechnya, as head of the office.

Following up this first visit, the commissioner returned to Russia on 24 February. He discussed the possibilities of co-operation with the newly created Office of the Special Representative of the President of the Russian Federation for ensuring human rights and freedoms of people and citizens in the Chechen Republic, particularly in what ways the Council of Europe could assist the work of the Office. On 25 February the commissioner held meetings with Russian Foreign Minister, Igor Ivanov, the newly appointed human rights representative for Chechnya, Vladimir Kalamonov, and representatives of NGOs concerned with human rights protection. He also asked to go to Chechnya, to examine the situation there.

On 30 and 31 May the commissioner was in Vladikavkaz, capital of North Ossetia, to attend a seminar on democracy, the rule of law and human rights organised jointly by the Council of Europe and the Russian authorities.

### Consequences of the war in Chechnya

The idea of this seminar was first mooted by Mr Gil-Robles during his initial visit to Russia. The seminar brought together leading Russian politicians, including notably politicians from the North Caucasus republics, and representatives of civil society and international organisations to discuss the consequences of the war in Chechnya and life in the North Caucasus in the aftermath of the war.

Mr Gil-Robles gave a speech and chaired the introductory session on democracy, the rule of law, human rights and the role of democratic institutions in a civil society.

The Commissioner made an official visit to Georgia, at the invitation of the Caucasian state's Government, from 1 to 9 June 2000. He visited certain regions where the situation is critical with regard to respect for human rights: Abkhazia, Tzkhinvali and regions with refugees who have fled areas where there are conflicts. He also had talks with the highest Georgian authorities, including the President of Georgia, Eduard Shevardnadze, the Speaker of the Georgian Parliament Zurab Jvania, several ministers, representatives of the judiciary, and representatives of non-governmental organisations. The purpose of the visit to Georgia was to give new impetus to the universal idea of respect for human rights and to seek ways of solving the problems in that part of the world.

### Ombudsmen

The commissioner's first meeting with ombudsmen from central and eastern Europe was held at his initiative on 23 and 24 June in Budapest. Commissioners, ombudsmen or their deputies representing eleven countries from central and eastern Europe held an exchange of views on all aspects of their activities, and in

particular their co-operation with the Commissioner for Human Rights. They discussed the importance of encouraging the creation of ombudsmen's offices in countries where they do not yet exist, the role of the ombudsman in crisis situations, co-operation with

NGOs, the idea of a meeting with judges or experts from the European Court of Human Rights, and the possibility of a visit by the commissioner to their countries in order to study the general human rights situation.



## D. Other activities

### Conferences and colloquies

- The **European Ministerial Conference on Mass Media Policy** was held in Cracow on 15 and 16 June. On the agenda was the role of the public service and education in the world of cyber-communication.
- The first European conference to bring together **attorneys-general and public prosecutors** from all countries on the European continent took place in Strasbourg from 22 to 24 May. The theme was “The public prosecution service – its statute, powers, relations with the government, the courts and the police, its role *vis-à-vis* crime policy, and its role in international co-operation in criminal justice matters”.
- **Ministers of the interior, secretaries of state and heads of police** of Council of Europe member states met in Bucharest on 23 June under the chairmanship of the Romanian Interior Minister. They stressed that human rights protection requires an effective fight against crime and insecurity.
- A conference on the **complementary role of national Parliaments and European Parliamentary Assemblies in shaping a democratic greater Europe** was organised by the President of the Parliamentary Assembly, Lord Russell-Johnston, on 5 and 6 May in Strasbourg. Around sixty speakers and presidents of national parliaments and European parliamentary assemblies attended. The themes covered were: “How to co-ordinate action between national parliaments, the Council of Europe’s Parliamentary Assembly and the other European assemblies in the drawing-up and implementation of European norms?” and “What role can parliaments play in the fight against organised crime and corruption?”
- European **national human rights institutions** met for the 1st Round Table/3rd European Meeting in Strasbourg, on 16 and 17 March 2000. The meeting was jointly organised by the Council of Europe and the Co-ordinating Group for National Institutions in Europe. The participants agreed to

make certain recommendations. These are also put forward as a contribution to the European Conference against Racism taking place in October 2000 in Strasbourg and the European Ministerial Conference on the occasion of the 50th anniversary of the European Convention on Human Rights, in November 2000 in Rome. [*Human rights information bulletin No. 50*, which will be covering the ministerial conference, will give further information about the national institutions’ initiatives.]

- Within the framework of the 50th anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms, and the 50th anniversary of the Office of the United Nations High Commissioner for Refugees, the Directorate General of Human Rights (DG-II) and the Office of the United Nations High Commissioner for Refugees (UNHCR), in collaboration with the European Court of Human Rights, organised a colloquy on **The European Convention on Human Rights and the Protection of Refugees, Asylum-Seekers and Displaced Persons**. The colloquy took place on 19 and 20 May 2000.

It followed and updated a similar event which took place in 1995 in Strasbourg. Its main objective was to examine the potential of the European Convention on Human Rights (ECHR) and the evolution of its jurisprudence as relevant to the protection of refugees and asylum-seekers. Some 80 persons participated in this two-day event, including government officials, representatives of IGOs and NGOs, judges of the European Court of Human Rights, Council of Europe and UNHCR staff members. Discussions were open and constructive with all participants demonstrating much interest in the issues as well as detailed knowledge of the pertinent ECHR jurisprudence.

### Meetings and hearings

- At the initiative of the Secretary General a consultative meeting was held on 27 March 2000. It focused on **combating anti-Semitism** in Europe. The main aim was to finalise specific points relat-

ing to the combat against anti-Semitism proposed for inclusion in the final declaration to be issued at the “All Different, All Equal: from Principle to Practice” European conference, to be held in Strasbourg in October.

- **Justice ministers**, meeting in London on 8 and 9 June, pledged to improve the efficiency and functioning of judicial systems in the Council’s member states. They also called on the Council to speed up work on combating cyber-crime and to conclude an international treaty by the end of the year.
- A hearing on the **freedom of the media in Russia**, jointly organised by the Parliamentary Assembly’s Culture and Education Committee and its Legal Affairs and Human Rights Committee, was held on 27 June. The aim was to contribute to the preparation of the Assembly’s debate on the follow-up to the recommendations relative to the conflict in Chechnya, which took place on 29 June.

## Competitions

- In the final of the **René Cassin European Human Rights Competition** held on 31 March, first place went to the University of Heidelberg. The theme

of this contest, held for the sixteenth time this year, was the rights of aliens and freedom of movement.

- The **Pierre Laroque Competition on the European Social Charter** was organised on 22 May. English- and French-speaking teams from around Europe took part in this inaugural contest to plead a fictitious case concerning a violation of the Social Charter. One of the alleged violations struck a very topical chord: professional equality between men and women. The finals were won by the Collège d’Europe in Bruges (Belgium) and the Åbo Akademi University (Finland).



*Lively debate – participants in the Pierre Laroque Competition*

## III. Publications

*Publications with ISBNs beginning 92-871- may be obtained from Council of Europe Publishing. For further information, contact:*

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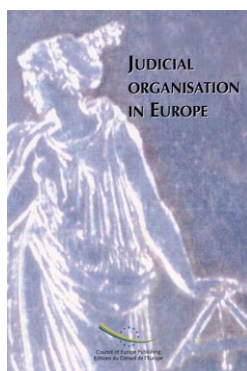
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F-67075 Strasbourg Cedex

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e-mail humanrights.info@coe.int

### Human rights in general

#### Judicial organisation in Europe

ISBN 92-871-4245-9



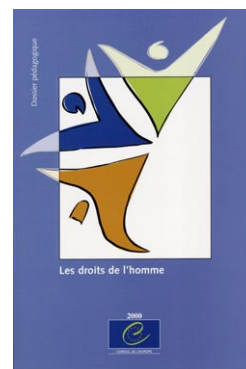
Introduced by the Lord Chancellor, this publication contains a description of the structure and functioning of the judicial systems of most Council of Europe member states, and is of considerable practical value. The increasing freedom to travel within Europe is inevitably leading to an increased use of the courts in civil and criminal cases. Basic information about the structure and operation of thirty-three countries collected together in one volume represents an invaluable resource. This book will also be of very consider-

able academic interest to scholars of the different systems of law in Europe. This publication was presented during the 23rd Conference of European Ministers of Justice (London, 8-9 June 2000) on the theme: "Delivering justice in the twenty-first century".

#### Les droits de l'homme – dossier pédagogique

English edition forthcoming

ISBN 92-871-4044-8



Ce guide, écrit par François Audigier et Guy Lagelée, est composé de deux parties: l'une destinée à l'enseignant, l'autre à l'élève. Il a pour but de construire les connaissances – juridiques, philosophiques, liées à l'actualité – sur les droits de l'homme, mais aussi de donner des pistes quant à leur mise en œuvre.

#### The margin of appreciation: interpretation and discretion under the European Convention on Human Rights

by Steven Greer

Human rights files No. 17

ISBN 92-871-4350-1

The term *margin of appreciation* is used by the Strasbourg organs to refer to the "room for manoeuvre" which they may allow to national authorities in the implementation of their obligations under certain articles of the European Convention on Human Rights. This complex notion does not appear in the Convention itself, but only in certain decisions or judgments.

In this monograph the author sets out to clarify the concept, and examines the consistency and uniformity of its application by means of detailed analyses of the case-law in around twenty significant judgments where the doctrine has been applied.

**Collection of resolutions adopted by the Committee of Ministers in application of Articles 32 and 54 of the European Convention on Human Rights**

Supplement 1997, Volume II: May-September 1997

ISBN 92-871-4332-3

**Mediation in penal matters**

Recommendation No. R (99) 19 and explanatory memorandum

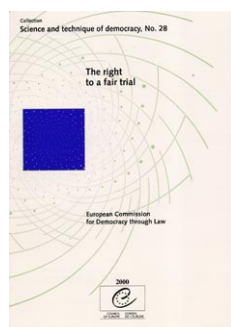
ISBN 92-871-4147-9

The recommendation covers a definition of mediation in penal matters, some general principles, and the legal basis of such mediation. It deals also with the operation of the criminal justice system and that of mediation services. In this respect, the legal safeguards of the parties in criminal justice processes, as laid down in the European Convention on Human Rights, have been emphasised.

**The right to a fair trial**

Science and technique of democracy No. 28

ISBN 92-871-4297-1

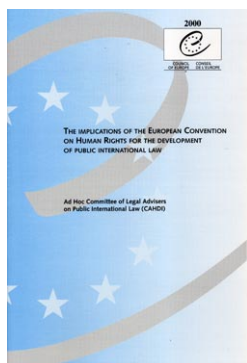


The right to a fair trial is a fundamental element of legal systems. The reports which appear in this volume were presented in Brno at a seminar on European constitutional heritage, in which judges from constitutional courts and other equivalent bodies from approximatively twenty countries participated.

**The implications of the European Convention on Human Rights for the development of public international law**

by T. Meron

ISBN 92-871-4290-4



The impact of the European convention on Human rights is not limited to general international

law, it is also important on such diverse areas as the principles of state responsibility, the interpretation of treaties, and environment protection.

**Prison overcrowding and prison population inflation**

Recommendation No. R (99) 22 and report

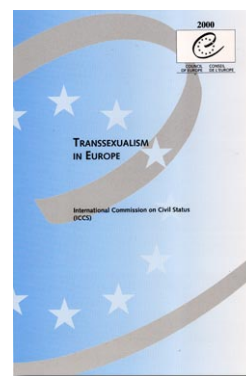
ISBN 92-871-4149-5

Prison overcrowding is a complex problem, which represents a major challenge to prison administrations and the criminal justice system as a whole. This book offers a thorough statistical analysis of the situation in Council of Europe member states as regards the evolution of prison populations and their density. It also offers a range of pertinent solutions to the problems under consideration.

**Transsexualism in Europe**

by F. Granet

ISBN 92-871-4343-9



This book contains a consolidated report on transsexualism in Europe, national legislation and international legal instruments concerning transsexuals, as well as the judgments of the European Court of Human Rights on the matter.

**The avoidance and reduction of statelessness**

Recommendation No. R (99) 18 and explanatory memorandum

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This recommendation aims at developing further the principle, which is stressed in the European Convention on Nationality, that statelessness must be avoided and reduced.

**The Council of Europe and the protection of human rights**

A 32-page illustrated booklet presenting the mission and actions of the Council of Europe in the field of human rights. It covers the European Convention on Human Rights, the European Social Charter, the European Convention for the prevention of Torture, the Framework Convention for the Protection of National Minorities, combating racism and intolerance, equality between women and men activities in the spheres of media and democracy, human rights awareness, and

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## ADACS

### The Council of Europe and Central and Eastern Europe – Summary Sheet

H (2000) 7, 20 March 2000 (supersedes H (99) 3)

### Stability Pact for South-East Europe: Regional meeting on Independent National Human Rights Protection Institutions (including Ombudsman institutions)

Budapest, 13-14 December 1999 – Proceedings and conclusions  
H (2000) 5 (English only)

### Charts of signatures and ratifications of selected human rights instruments

H (2000) 9, 27 June 2000 (bilingual)

## CPT

CPT documents are available from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, F-67075 Strasbourg Cedex. Public documents are also available on the CPT's Internet site: <http://www.cpt.coe.int/> and via e-mail: [cptdoc@coe.int](mailto:cptdoc@coe.int).

The reports and responses of the governments are generally published in one language only, English or French, as indicated below.

### Observations concerning the Russian Federation

See press release No. 161a00 dated 6 March 2000. Observations published in French and English on 3 April 2000

Observations made by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited a number of places of detention in the North Caucasian region from 26 February to 4 March 2000. The delegation focused its attention on the treatment of persons who have been deprived of their liberty because they are suspected of having committed offences in the Chechen Republic.

### Report of the Spanish Government

on the visits to Spain carried out by the CPT from 17 to 18 January 1997 and from 22 November to 4 December 1998, and of the Government's responses

CPT/Inf (2000) 3, CPT/Inf (2000) 4,  
CPT/Inf (2000) 5 and CPT/Inf (2000) 6

### Report of the United Kingdom Government

on the visit of the CPT to the United Kingdom and the Isle of Man in 1997  
CPT/Inf (2000) 7

### Follow-up report of the Irish Government

in response to the report drawn up by the CPT after its visit to Ireland in 1998  
CPT/Inf (2000) 8

### Report of the authorities of the Kingdom of the Netherlands

on the visit of the CPT to the Netherlands Antilles in January 1999, and the response of the Government of the Netherlands Antilles  
CPT/Inf (2000) 9 and CPT/Inf (2000) 10

## Social questions

### Vade-mecum de la Charte sociale européenne

English edition forthcoming  
ISBN 92-871-4309-9



Ce livre de référence offre, sous forme de fiches faciles à consulter, une information à la fois concise et précise sur le fonctionnement du mécanisme de contrôle de la Charte sociale ainsi que les grandes lignes de la jurisprudence du Comité européen des droits sociaux.

S'y ajoute une partie essentielle, qui concerne plus directement l'impact de la Charte sociale dans les Etats qui préparent la ratification ou qui l'ont ratifiée.

Enfin, il est complété par des informations pratiques, notamment des réponses aux questions fréquemment posées sur la Charte sociale.

### Social Rights=Human Rights

Newsletter on the European Social Charter No. 13, May 2000

### European Social Charter: Conclusions XV-1

European Committee of Social Rights

Vol. 1 ISBN 92-871-4268-8

Vol. 2 ISBN 92-871-4271-8



## Equality between women and men

### Seminar proceedings "Men and violence against women"

Strasbourg, 7-8 October 1999

EG/SEM/VIO (99) 21

This seminar was intended as a supplementary step towards the implementation of the Istanbul Declaration adopted at the 4th European Ministerial Conference on Equality between Women and Men (Istanbul, 13-14 November 1997) and a further attempt at combating violence against women which is one of the main obstacles to the achievement of equality between women and men. In view of recent events in Europe at the time of the Seminar, special attention was given to the question of men's violence against women and children in situations of armed conflict.

## ECRI

### Examples of "good practices" to fight against racism and intolerance in the European media

CRI (2000) 19

## Annual report on ECRI's activities 1999

CRI (2000) 20

### ECRI general policy Recommendation No. 5: combating intolerance and discrimination against Muslims

CRI (2000) 21

## ECRI country-by country reports

Second report on Belgium CRI (2000) 2

Second report on Bulgaria CRI (2000) 3

Second report on the Czech Republic CRI (2000) 4

Second report on France CRI (2000) 31

Second report on Greece CRI (2000) 32

Second report on Hungary CRI (2000) 5

Second report on Norway CRI (2000) 33

Second report on Poland CRI (2000) 34

Second report on Slovakia CRI (2000) 35

Second report on Switzerland CRI (2000) 6

## Appendix I

### Council of Europe Committee of Ministers

#### Appendix to Reply to Recommendation 1439 (2000) on the European Union's Charter of Fundamental Rights

Intervention made before the Ministers' Deputies' Rapporteur Group  
on relations between the Council of Europe and the European Union (GR-EU)  
by Mr Wildhaber, President of the European Court of Human Rights, on 7 March 2000

1. At this stage there are so many imponderables regarding the proposed European Union Charter of Fundamental Rights, and notably as to its legal character and its content, that it is sometimes difficult to see clearly the way forward. You will perhaps allow me therefore to set out a few basic considerations that might help illuminate the debate on its elaboration, but which do not claim to be exhaustive. Judge Fischbach has followed and participated in the discussions within what is rather confusingly named the Convention and will be in a position to report on its proceedings and to answer any questions you may have on that and on the joint position expressed by him and Mr Krüger on behalf of the Council of Europe. What I have to say will be more in terms of the general concerns underlying that joint position, at least from the Court's point of view.
2. Perhaps I might start by saying that the Court's main concern in the context of this discussion is to avoid a situation in which there are alternative, competing and potentially conflicting systems of human rights protection both within the Union and in the greater Europe. The duplication of protection systems runs the risk of weakening the overall protection offered and undermining legal certainty in this field. Furthermore, the adoption of one system of protection for the Union countries and another for non-Union countries, whether they be candidates or not, calls into question the consolidation of democracy and the rule of law in central and eastern Europe on the basis of common minimum standards guaranteed by a system of collective enforcement. The Strasbourg system exists, has proved itself over several decades, and is evolving and will continue to evolve. There should be no double standards, no Europe of two, three or four speeds. That is the principle and it is not so difficult to state; it may be harder to agree on the technicalities.
3. The essence of collective enforcement is external control. If I have understood correctly, however,

the origin of the Charter process is a perceived need for internal control of the Community's respect of fundamental rights rather than an additional or in some way enhanced external control of the Union member states' protection of human rights. In this sense, the idea of a Charter is certainly compatible with the European Convention on Human Rights, which operates an external control in relation to states, as far as fundamental rights are concerned, a control which is complementary and subsidiary to the internal role of the national courts.

The Convention and its control mechanism function as a fail-safe. In other words, where fundamental rights are adequately protected at national level, the Strasbourg Court should not be called upon to intervene. It thus falls in the first place to national authorities to guarantee the rights and freedoms set out in the Convention, but those authorities remain free to choose the means of doing so. This subsidiary character of the Convention system is central to its effective functioning.

4. Another aspect of subsidiarity is that the Convention does not preclude the adoption of higher standards of human rights protection under internal norms. Article 53 of the European Convention on Human Rights specifically allows for higher standards of protection in national systems and this clearly could also apply to the Community system.
5. There remains the question whether the Community should also be exposed to external scrutiny. Such external control could be achieved by its accession to the Convention. The same principle could apply as in relation to national systems: internal control by the Court of Justice of the Communities and external control by the Strasbourg Court, always remembering that such external control is exercised subsidiarily and exclusively in the field of fundamental rights. However, it appears undesirable and unnecessary to have two

international courts involved in the same proceedings: undesirable for reasons of economy of procedure and unnecessary in this instance because, from the Strasbourg point of view, the European Court of Justice has for years applied the Convention in the light of the Strasbourg case-law, with considerable and laudable effectiveness.

6. The accession of the Communities to the Convention would require amendment of the Treaties (Opinion ECJ 2/94), on the one hand, and the Convention and the Statute of the Council of Europe, on the other. Beyond that, the key to accession is to develop a mechanism which allows the two Courts to continue to function side by side, respecting each other's jurisdictional autonomy, while at the same time ensuring that the interpretation of standards does not diverge. In this connection, one idea that has been put forward in the Council of Europe's joint observations is to develop a process which would allow the ECJ to seek advisory opinions from Strasbourg in cases where Convention law was not clear. Such opinions could be dealt with under a fast-track procedure. It would also be necessary to consider what measures would be appropriate to prevent, in principle, such cases being subsequently brought to Strasbourg to contest a decision of the ECJ taken in the light of an opinion given by the European Court of Human Rights.
7. I do not propose to rehearse the arguments in favour of accession, but I should like to address one of the objections regularly canvassed, namely the reluctance of Community member states to see community law issues dealt with by judges from non-Union states. This is, I consider, to overlook the fact that the Court would of course not be called upon to rule on community law as such, but, in so far as such issues came before it, only its conformity or the conformity of its application to the minimum standards set out in the European Convention on Human Rights – an instrument ratified by all the Union members, expressly cited in the Treaties and in the case-law of the Court of Justice of the Communities. The approach underlying this objection is hardly compatible with the dual notions of subsidiarity and collective guarantee. However, it would no doubt be possible to adopt Rules of Court concerning the composition of a special Chamber, and we should not exclude that possibility at this stage.

8. The debate on the Charter represents a formidable opportunity to reopen the whole question of the Community's accession to the Convention and one which I believe the Council of Europe should seize upon without hesitation or complexes. That should be the basis for our common position on this matter. It would, however, be naive to assume that the argument can be won easily. The logic of accession has long been persuasive, without, for all that, being able to overcome the various obstacles placed in its way. It would therefore be prudent to adopt a fall-back position, and that is that any internal Community Charter should, as a minimum, itself proclaim the rights and freedoms set out in the Convention as interpreted by the European Court of Human Rights in Strasbourg. In other words, formal effect should be given, whether in a Charter or the Treaties, to the current approach of the Court of Justice in its human rights case-law, in which the Convention, as interpreted by the Strasbourg Court, is applied. This would not secure direct external scrutiny of the Community, but it would provide a form of indirect and even pre-emptive external control in that the Convention, as interpreted in Strasbourg, would be binding as part of community law enforced through the Community's own legal order by its own institutions.

9. Let me finish by dealing with one view put forward in this debate with which I feel that I must take issue. It is argued in some quarters that the Convention is in some way out of date and that the rights and freedoms which it protects need modernising. I would not contest that the protection afforded by the Convention could be extended to cover new rights provided that there is consensus and that the rights in question are justiciable.

That is for the Communities to decide. What I cannot accept is the suggestion that the rights and freedoms already enshrined in the Convention are outdated. It is precisely the genius of the Convention that it is indeed a dynamic and a living instrument, which has shown its capacity to evolve in the light of social and technological developments that its drafters, however far-sighted, could never have imagined. The Convention has shown that it is capable of growing with society; its formulations have proved their worth over five decades. This message too is one that all those who believe in the common European architecture established by the Council of Europe should voice.



## Appendix II

### Council of Europe Committee of Ministers

#### Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms to be opened for signature on 4 November 2000

The member states of the Council of Europe signatory hereto,

Having regard to the fundamental principle according to which all persons are equal before the law and are entitled to the equal protection of the law;

Being resolved to take further steps to promote the equality of all persons through the collective enforcement of a general prohibition of discrimination by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”);

Reaffirming that the principle of non-discrimination does not prevent States Parties from taking measures in order to promote full and effective equality, provided that there is an objective and reasonable justification for those measures,

Have agreed as follows:

#### Article 1

##### *General prohibition of discrimination*

1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

#### Article 2

##### *Territorial application*

1. Any state may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.

2. Any state may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt by the Secretary General of such declaration.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.
4. A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.
5. Any state which has made a declaration in accordance with paragraph 1 or 2 of this article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention in respect of Article 1 of this Protocol.

#### Article 3

##### *Relationship to the Convention*

As between the States Parties, the provisions of Articles 1 and 2 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

#### **Article 4**

##### *Signature and ratification*

This Protocol shall be open for signature by member states of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member state of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### **Article 5**

##### *Entry into force*

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member states of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 4.
2. In respect of any member state which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of

three months after the date of the deposit of the instrument of ratification, acceptance or approval.

#### **Article 6**

##### *Depositary functions*

The Secretary General of the Council of Europe shall notify all the member states of the Council of Europe of:

*a* any signature;

*b* the deposit of any instrument of ratification, acceptance or approval;

*c* any date of entry into force of this Protocol in accordance with Articles 2 and 5;

*d* any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at ....., this .. day of .. 2000, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member state of the Council of Europe.



