



AS/Jur/Inf (2011) 05 rev 2

18 April 2011

ajinfdoc05 2011 rev 2

Committee on Legal Affairs and Human Rights

States with major structural/systemic problems before the European Court of Human Rights: statistics

Information document compiled by the Secretariat
upon the instructions of the Chairperson

1. Introductory remarks: the context

1. At its meeting to be held in Oslo, on 6 and 7 June 2011, the Committee on Legal Affairs and Human Rights (AS/Jur) will be organising a hearing on “The viability of the ECHR: system in jeopardy?”. It is understood that the purpose of this hearing will be, *inter alia*, to:

- permit the AS/Jur to take stock of progress made and proposals put forward to ensure the long-term effectiveness of the ECHR system, especially in the light of the High Level Conference on the Future of the European Court of Human Rights which is to be held in Izmir on 26-27 April 2011¹, and
- provide additional background information on recent developments to the Committee and in particular its two rapporteurs Mrs Bemelmans-Videc (The Netherlands, EPP/CD) and Mr Kivalov (Ukraine, ALDE), for the latter to be able to complete reports on this subject.²

2. This work must also be seen in the context of the AS/Jur’s concern that priority be given to the full and expeditious compliance with the judgments of the European Court of Human Rights (ECtHR):

“For several years the Parliamentary Assembly has tried to contribute to the effective implementation of the judgments of the European Court of Human Rights, by bringing parliamentary pressure to bear on governments where worrying delays in complying with judgments have arisen. In this 7th report, the Committee on Legal Affairs and Human Rights has given priority to the situation in nine states where major structural problems have led to many repeat violations.

The main problems continue to be excessive length of judicial proceedings (endemic notably in Italy), chronic non-enforcement of domestic judicial decisions (widespread, in particular, in Russia and Ukraine), deaths and ill-treatment by law enforcement officials and lack of effective investigations into them (particularly apparent in Russia and Moldova) and unlawful or over-long detention on remand (a problem notably in Moldova, Poland, Russia and Ukraine).

These problems are a matter for grave concern and serious undermine the rule of law in the states concerned. The committee makes a series of recommendations to each state where it detects outstanding problems, as well as some general recommendations. In particular, it calls for national mechanisms, including oversight by national parliaments, to ensure the

¹ Organised by the Turkish Chairmanship of the Committee of Ministers:
see http://www.coe.int/t/dghl/standardsetting/conferenceizmir/default_en.asp.

² The title of the report being prepared by Mrs Bemelmans-Videc is “Guaranteeing the authority and effectiveness of the European Convention on Human Rights”, and that of Mr Kivalov is “Ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties”.

*implementation of Court judgments. If these problems are not dealt with, the committee warns, the future of the Convention system – and even the Council of Europe itself – are in jeopardy.*³

3. On the basis of this report, presented by the AS/Jur, the Assembly decided to give priority to the examination of major structural problems concerning case in which worrying delays in implementation have arisen, in particular, in nine states, namely Bulgaria, Greece, Italy, Moldova, Poland, Romania, the Russian Federation, Turkey and Ukraine⁴.

4. States were classified under one or both of the following rubrics:

- judgments which raise important implementation issues as identified, in particular, by an interim resolution of the Committee of Ministers; and
- judgments concerning violations of a very serious nature⁵.

5. The present document has therefore been prepared to provide additional data with respect to states with the most serious “structural” or “systemic” problems and which generate the highest number of applications lodged before the Court in Strasbourg (based on the first of the two abovementioned rubrics).

2. Definition of a structural/systemic problem

6. The term “systemic” or “structural” problem often appears in documents issued by the Committee of Ministers, the Organisation’s executive organ, and in judgments of the European Court of Human Rights. It is a recent expression of the idea, inherent in the Convention system since its inception, that problems revealed – when violations are established - call not only for individual but also general measures when there is a risk of further similar violations. The first specific reference by the Committee of Ministers (“CM”) to the new term was made in a Resolution which the Committee of Ministers adopted on 12 May 2004 - *Resolution (Res(2004)3) on judgments revealing an underlying systemic problem*. In this Resolution, the CM, having emphasised the need to help the states concerned to identify underlying problems, and to implement the necessary measures⁶, invited the Court “to identify in its judgments finding a violation of the Convention what it considers to be an underlying systemic problem and the source of that problem, in particular when it is likely to give rise to numerous applications, so as to assist States in finding the appropriate solution and the Committee of Ministers in supervising the execution of judgments”⁷. In the Interlaken Declaration of 19 February 2010 reference was also made to the need to “implement general measures capable of remedying effectively the structural problems at the origin of repetitive cases” (Action Plan, D. Repetitive applications, 7 ii). The ECtHR itself also noted, in its first “pilot judgment” in the *Broniowski* case, that the CM’s Resolution must be seen in the context of the growth in its caseload, particularly as a result of a series of cases deriving from the same structural or systemic cause⁸.

³ Text of *Summary* on cover page of AS/Jur Report on “Implementation of judgments of the European Court of Human Rights”, Assembly document 12455, of 20 December 2010 (Rapporteur, Mr Pourgourides), <http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12455.pdf>. See also, in this connection, Assembly Resolution 1787 (2011) and Recommendation 1955 (2011) on the Implementation of judgments of the ECtHR, adopted on 26 January 2011. On 5 April 2011 the President of the Assembly wrote to a number of chairpersons of PACE delegations asking them to indicate what follow-up has been given - by their respective parliaments - to Resolution 1787 (2011).

⁴ See paragraphs 3 and 4 of Resolution 1787 (2011) of 26 January 2011. The Assembly also pointed out that there are still many outstanding problems in the implementation of ECtHR judgments in the following countries: Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia and Serbia.

⁵ Paragraph 5 of the explanatory memorandum, see *supra*, note 4.

⁶ Seventh paragraph of the Preamble.

⁷ Paragraph I of the Resolution (emphasis added).

⁸ *Broniowski v. Poland*, judgment of 22 June 2004, application No 31443/96, paragraph 190. Although it is sometimes difficult to draw a clear distinction between cases requiring general measures, cases revealing systemic problems or cases revealing structural problems, such problems very often generate an important numbers of clone and repetitive cases.

7. The importance of prioritization of cases raising major structural/systemic problems has been highlighted both by ECtHR and by the CM. As of 31 March 2011, the ECtHR inserted in its Rules a special rule (Rule 61)⁹ on the “pilot-judgment” procedure¹⁰. This Rule specifies how the Court is to use this procedure “(...) *where the facts of an application reveal in the Contracting State concerned the existence of a structural or systemic problem or other similar dysfunction which has given rise or may give rise to similar applications*”¹¹. The cases selected for this procedure shall be processed as a matter of priority¹².

8. Therefore, a systemic/structural problem may be considered to be a “dysfunction” in the national legal system when it leads to numerous applications before the Court in Strasbourg. The latter defines such a problem in the context of the specific circumstances of a case before it. For instance, in the *Broniowski v. Poland* judgment the violation originated in “*a systemic problem connected with the malfunctioning of domestic legislation and practice caused by the failure to set up an effective mechanism to implement the ‘right to credit’ of Bug River claimants*”.

3. Extracts from the statistics from the European Court of Human Rights and the Committee of Ministers¹³

3.1. Introduction

9. In order to identify States Parties to the European Convention on Human Rights (“Convention” “ECHR”) which have major structural problems, data has been extracted for this purpose from analyses undertaken by the Committee of Ministers which, by virtue of Article 46 of the Convention, supervises the execution of the ECtHR judgments, as well as Annual Reports issued by the ECtHR. The data indicate the number of judgments finding violation(s) of the Convention and, in particular, the number of the so-called “clone” or “repetitive” cases.

3.2. Cases pending before the Committee of Ministers for supervision of execution in April 2011

10. The data below show 12 states with the highest number of non-executed judgments (over 100) pending before the Committee of Ministers *on 1 April 2011*¹⁴. A description of the terms “leading”, “clone” and “isolated” judgments is given below under section 3.3.

⁹ This was inserted into the Court’s rules of procedure in answer to the request addressed to the Court at the Interlaken Conference on the future of the European Court of Human Rights, of February 2010, to “*develop clear and predictable standards for the pilot judgment procedure as regards selection of applications, the procedure to be followed and the treatment of adjourned cases*”.

¹⁰ See press release issued by the Registrar of the ECtHR on 24 March 2011, No 256.

¹¹ Rule 61, paragraph 1.

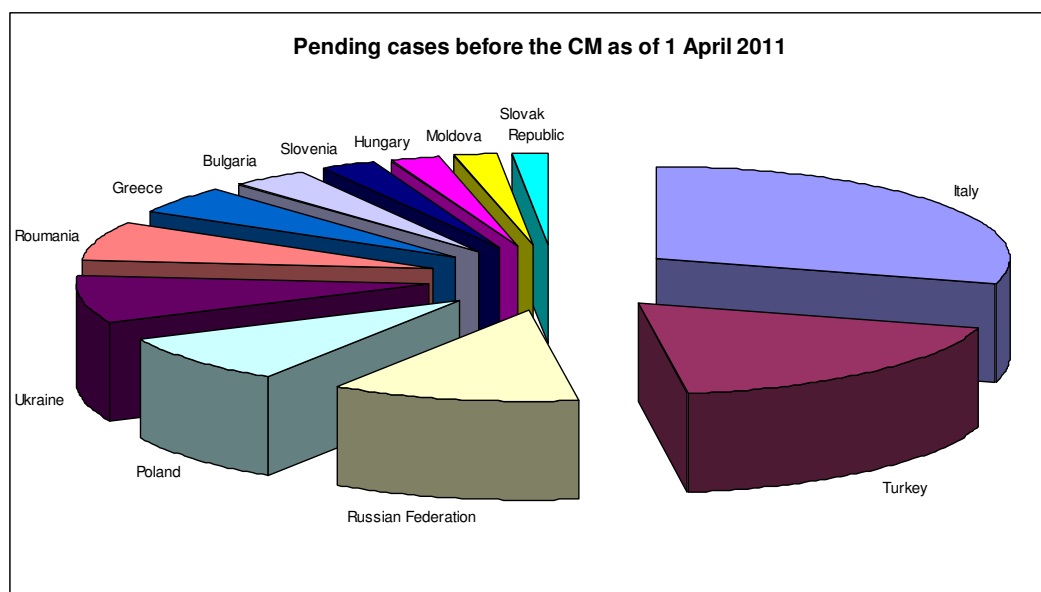
¹² Rule 61, paragraph 2, last sentence. Even in the new working methods adopted by the CM as of 1 January 2011, the CM has indicated that it will reserve “enhanced supervision” of execution to pilot judgments and to judgments disclosing *major* structural and/or complex problems as identified by the Court and/or the Committee of Ministers: see notably CM/Inf/DH(2010)45 final of 7 December 2010.

¹³ Committee of Ministers, Supervision of the execution of judgments of the European Court of Human Rights: 3rd Annual Report 2009.

¹⁴ It may be noted, in this context, that the juxtaposition of “isolated” cases (which includes many “friendly settlements”) with “clone” cases in the statistics for 2009 and 2010 does not - in any important way - change the number of clone and repetitive cases as most “friendly settlements” are indeed “clone” cases, even if the brevity of the description of the complaints may make it difficult to associate the “clone” with a specific “leading” case. Truly “isolated” cases are rare and thus do not change the basic trends. For cases pending before the CM on 31 December 2009, see Annual Report 2009, p. 41.

State ¹⁵	Cases pending before the CM at 1 April 2011 by state	Leading cases pending before the CM at 1 April 2011	Clone or isolated cases pending before the CM at 1 April 2011
Italy	2 482	49	2 433
Turkey	1 570	143	1 427
Russian Federation	946	93	853
Poland	759	70	689
Ukraine	714	66	648
Romania	584	83	501
Greece	383	49	334
Bulgaria	310	101	209
Slovenia	219	6	213
Hungary	181	14	167
Moldova	168	52	116
Slovak Republic	144	12	132

Website of the Committee of Ministers – Number of cases pending State by State at 1 April 2011



3.3. Clone cases pending before the Committee of Ministers for supervision of execution as of 31 December 2009

11. The Annual Reports of the CM make a distinction between “leading” cases, “clone” cases and “isolated” cases¹⁶.

12. A ‘leading case’ is a case which has been identified as revealing a new systemic/structural problem in a respondent state and which thus requires the adoption of new *general measures*¹⁷ (although these may already have been taken by the time the judgment is given), *more or less important* according to the case. This term also includes the so-called ‘pilot judgments’. Cases where

¹⁵ Concerning the relatively new States Parties such as Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia and Serbia (all mentioned in the report by Mr Pourgourides), they presently have an average of 20 to 60 cases pending before the Committee of Ministers. For further information, see the website of the Committee of Ministers at:

http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp.

¹⁶ For further information, see 3rd Annual Report of the Committee of Ministers 2009, p. 32.

¹⁷ According to CM practice, these are measures taken by a respondent state in order to avoid similar violations of the Convention in the future (for example, changes in legislation, case law of national courts and administrative practice, publication and dissemination to the competent authorities of a judgment of the European Court, etc.).

the violation hinges on the specific circumstances of the case and where it is unlikely that the violation will be repeated are labeled “isolated cases”.

13. “Clone” or “repetitive” cases are “those relating to a systemic or general problem already raised before the Committee of Ministers in one or several leading cases; these cases are usually grouped together (with the leading case as long as this is pending) for the purposes of the Committee’s examination”. That said, the CM stresses that it may sometimes be difficult to establish this when the case is examined for the first time (for example, it may happen that a case initially qualified as “isolated” is subsequently re-qualified as “leading” in the light of new information attesting to the existence of a general problem).¹⁸

14. Since not all “leading” cases create a big risk of “clone” cases, it is probably more useful for present purposes to focus on those “leading” cases which appear capable of generating an important number of “clone” cases. The “leading” cases which appear to fall into this category (among which are, notably, pilot judgments) and which were pending before the CM at the end of 2010 are listed in Appendix II of the present document; they are limited to the nine States Parties referred to in the report of Mr Pourgourides (see § 2 above).

15. To allow a comparison over a certain period of time, the statistics in paragraph 16, below, present the situation as reported in the CM’s Annual Report of 2009. One can note that this refers to the same 12 states cited in section 3.2. above, with respect to the highest numbers of pending cases.

16. These statistics include friendly settlements which took the form of a judgment prior to the entry into force of Protocol No. 14 to the European Convention of Human Rights.

State	Cases by state		Leading cases		Clone or isolated cases	
	Number of cases by state	% of all cases against all states	Number of cases by state	% of all cases by state	Number of cases by state	% of all cases by state
Italy	2,471	31.33%	45	1.82%	2,426	98.18%
Turkey	1,232	15.65%	125	10.15%	1,107	89.85%
Russian Federation	737	9.34%	57	7.73%	680	92.27%
Poland	586	7.43%	44	7.51%	542	92.49%
Ukraine	528	6.69%	37	7.01%	491	92.99%
Romania	475	6.02%	63	13.26%	412	86.74%
Greece	317	4.02%	45	14.20%	272	85.80%
Slovenia	211	2.68%	4	1.90%	207	98.10%
Bulgaria	224	2.84%	72	32.14%	152	67.86%
Hungary	148	1.88%	7	4.73%	141	95.27%
Moldova	128	1.62%	38	29.69%	90	70.31%
Slovak Republic	76	0.96%	13	17.11%	63	82.89%

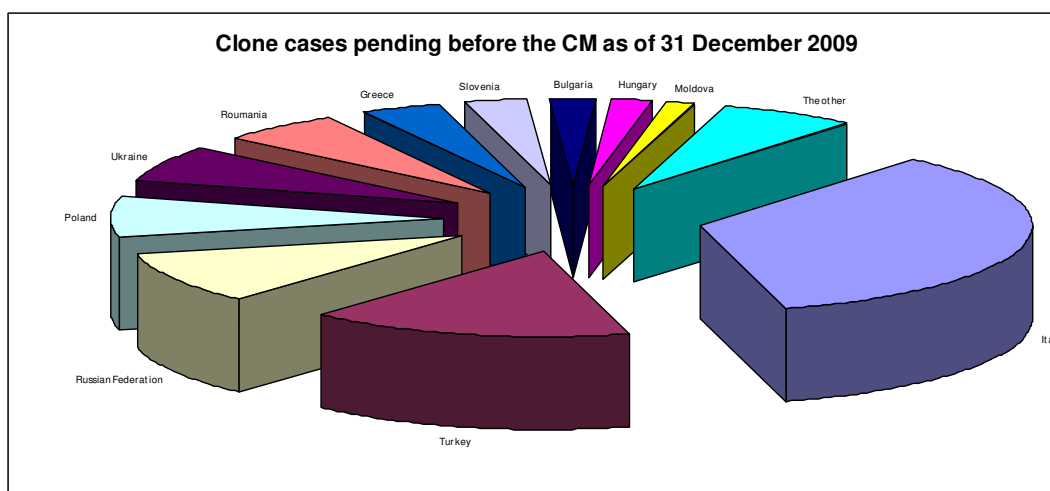
Committee of Ministers - Supervision of the execution of the judgments of the European Court of Human Rights – 3rd Annual Report 2009

Total (for all States Parties) number of cases: 7887

Total number of clone or isolated cases: 7065

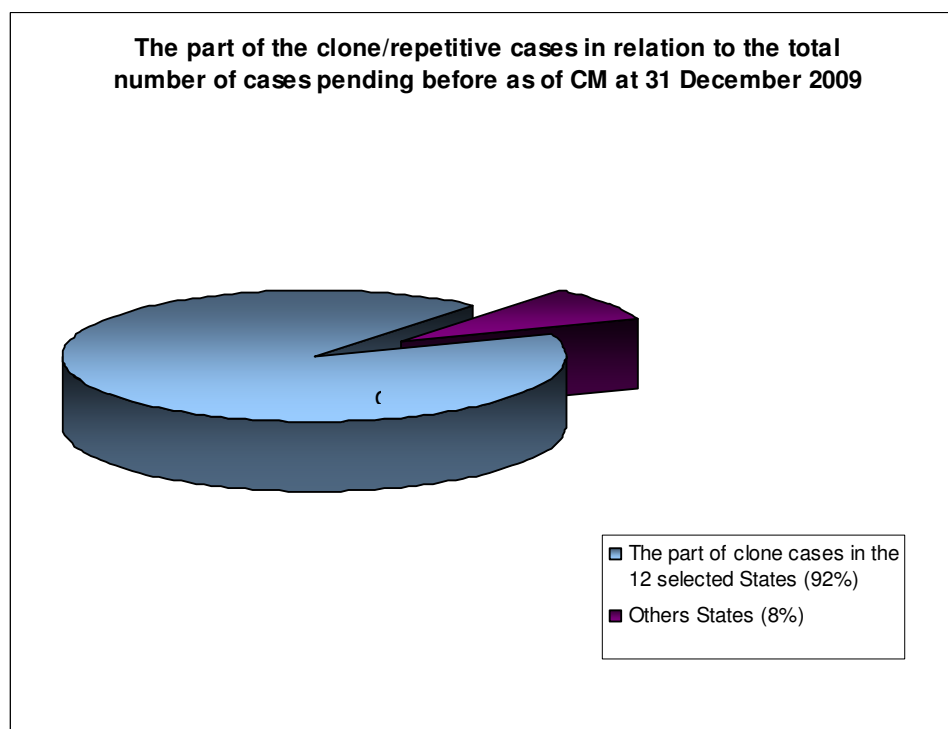
Total number of leading cases: 822

¹⁸ The classification of certain clone cases is not always clear, in particular because of the existence of borderline situations and because of the fact the certain judgments contain several violations of the Convention, including violations with a ‘clone’ aspect.



Committee of Ministers - Supervision of the execution of the judgments of the European Court of Human Rights – 3rd Annual Report 2009

17. The official statistics for 2010 will be published in the 4th CM Annual Report on 19 April 2011.



Committee of Ministers - Supervision of the execution of the judgments of the European Court of Human Rights – 3rd Annual Report 2009

4. Extracts from the statistics of the European Court of Human Rights¹⁹

4.1. Introduction

18. The data extracted from the Court's Annual Reports, from 2008 to 2010, reflect 'tendencies' concerning the number of incoming applications. They also show the number and the type of violations found by the Court with respect to the respondent state.

19. It is noteworthy that, in June 2009, due to increasing case-load, the Court amended its Rules of Court concerning the order in which it deals with cases. It decided to adopt a new priority policy (see amended Rule 41). The aim of this new policy is to examine more rapidly the most serious cases (in

¹⁹ Annual reports of the European Court of Human Rights from 2008 to 2010.

particular those concerning risk to life or health of the applicant or other personal circumstances) and the cases which disclose the existence of widespread problems capable of generating large numbers of additional cases. Therefore, "repetitive cases" (i.e. applications raising issues already dealt with in a pilot judgment) are dealt with a lower priority²⁰.

4.2. Cases pending before the European Court of Human Rights

4.2.1. Applications pending before the European Court on 31 December 2010 (ten principal respondent states)

No.	State	Number of pending applications	%
1	Russian Federation	40,300	28.9%
2	Turkey	15,200	10.9%
3	Romania	11,950	8.6%
4	Ukraine	10,450	7.5%
5	Italy	10,200	7.3%
6	Poland	6,450	4.6%
7	Moldova	3,850	2.8%
8	Serbia	3,500	2.5%
9	Bulgaria	3,450	2.5%
10	Slovenia	3,450	2.5%
Remaining 37 states		30,850	22.1%
Total		139,650	100%

4.2.2. Influx of applications allocated to a judicial formation between 2008 and 2010, by respondent state (15 states with the highest number of applications allocated to a judicial formation in 2010 + other states mentioned above):

No	State	Applications allocated to a judicial formation in 2010	Applications allocated to a judicial formation pending in 2009	Applications allocated to a judicial formation in 2008
1	Russian Federation	14 309	13 666	10 146
2	Romania	5 992	5 260	5 242
3	Turkey	5 821	4 474	3 706
4	Poland	5 777	4 986	4 369
5	Ukraine	3 962	4 693	4 770
6	Italy	3 852	3 624	1 824
7	United Kingdom	2 766	1 133	1 253
8	Germany	1 683	1 515	1 572
9	France	1 619	1 589	2 724
10	Serbia ²¹	1 566	1 576	1 067
11	Bulgaria	1 348	1 194	890
12	Croatia	992	755	608
13	Moldova	945	1 322	1 147
14	Sweden	901	367	317
15	Slovenia	837	598	1 353
(...) 19	Greece	585	518	416
(...) 22	Slovak Republic	568	569	488
(...) 24	Hungary	436	449	425
Total number of applications		61 307	57 157	49 ,861

Annual reports of the European Court of Human Rights 2008 - 2010

²⁰ http://www.echr.coe.int/NR/rdonlyres/AA56DA0F-DEE5-4FB6-BDD3-A5B34123FFAE/0/2010_Priority_policy_Public_communication.pdf.

²¹ As concerns other states mentioned in paragraph 2 above, the number of applications allocated to a judicial formation amounted to: 96 for Albania, 197 for Armenia, 337 for Azerbaijan, 658 for Bosnia and Herzegovina and 375 for Georgia.

20. According to the data obtained from the Registry of the ECtHR, the number of applications allocated to a judicial formation and concerning complaints on length of civil or criminal proceedings amounted to: in 2010 – to 6,000, in 2009 – to 5,400 and in 2008 – to 3,400.

4.2.3. Applications by State and by population in 2010, 2009 and 2008 (for the 12 selected states)

In 2010:

No	State	Applications allocated to a judicial formation in 2010	Applications declared inadmissible or struck out in 2010	Applications struck out by decision or judgment following a friendly settlement or unilateral declaration in 2010	Allocated applications/ population (10,000) in 2010
1	Russian Federation	14 309	6 911	256	1,01
2	Romania	5 992	3 650	9	2,79
3	Turkey	5 821	3 296	195	0,80
4	Poland	5 777	3 924	140	1,51
5	Ukraine	3 962	3 311	228	0,87
6	Italy	3 852	687	3	0,64
(...)11	Bulgaria	1 348	525	46	1,78
(...)13	Moldova	945	434	51	2,65
(...)15	Slovenia	837	581	5	4,07
(...)19	Greece	585	383	9	0,52
(...)22	Slovak Republic	568	664	56	1,05
(...)22	Hungary	436	240	32	0,44
Total number of applications		61 307	38 576	1 223	

Annual report of the European Court of Human Rights of 2010

In 2009:

No	State	Applications allocated to a judicial formation in 2009	Applications declared inadmissible or struck out in 2009	Applications struck out by decision or judgment following a friendly settlement or unilateral declaration in 2009	Allocated/ population (10,000) in 2009
1	Russian Federation	13 666	6 961	54	0,96
2	Romania	5 260	4 094	83	2,45
3	Poland	4 986	3 635	178	1,31
4	Ukraine	4 693	2 863	4	1,02
5	Turkey	4 474	1 965	56	0,63
6	Italy	3 624	584	5	0,60
(...)10	Moldova	1 322	386	21	3,70
11	Bulgaria	1 194	596	25	1,57
(...)15	Slovenia	598	628	5	2,91
16	Slovak Republic	569	357	14	1,05
17	Greece	518	336	10	0,46
(...)21	Hungary	449	233	9	0,45
Total number of applications		57 157	33 065	635	

Annual Report of the European Court of Human Rights of 2009

In 2008:

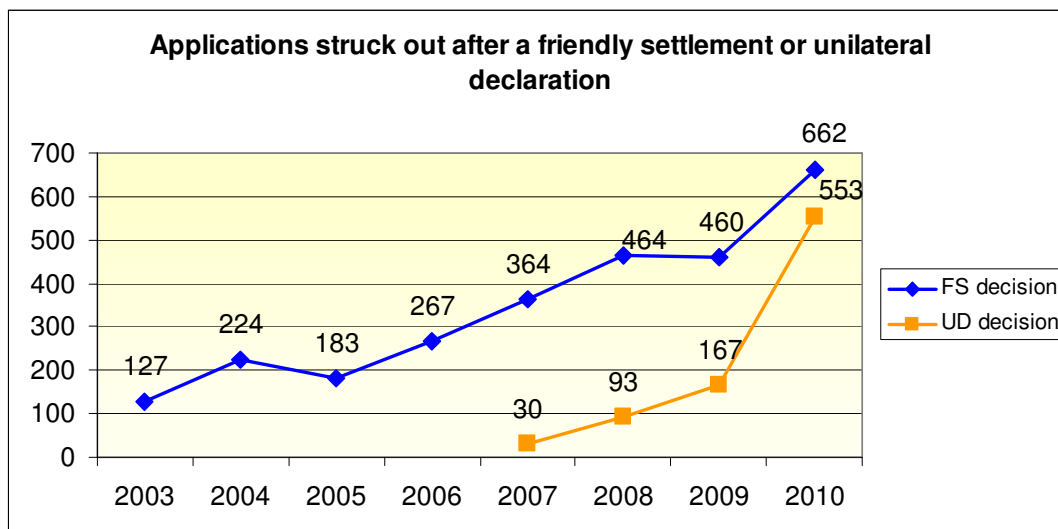
No	State	Applications allocated to a judicial formation in 2008	Applications declared inadmissible or struck out in 2008	Judgments (friendly settlements) in 2008	Allocated/population (10 000) in 2008
1	Russian Federation	10 146	2,982	-	0,71
2	Romania	5 242	4,466	-	2,43
3	Poland	4 369	3,825	-	1,15
4	Ukraine	4 770	2,044	-	1,03
5	Turkey	3 706	1,475	-	0,53
(...) ⁷	Italy	1 824	458	-	0,31
(...) ¹⁰	Slovenia	1 353	812	-	6,68
(...) ¹²	Moldova	1 147	477	-	3,21
(...) ¹⁴	Bulgaria	890	434	-	1,16
(...) ¹⁶	Slovak Republic	488	459	1	0,90
17	Hungary	425	338	-	0,42
18	Greece	416	323	-	0,37
Total number of applications		49 861	30 164	6	

Annual Report of the European Court of Human Rights of 2008

4.3. Applications struck out after a friendly settlement or unilateral declaration, between 2008 and 2010²²

4.3.1. Number of applications decided by judgment on friendly settlement or struck out after a decision on a friendly settlement or a decision to accept a unilateral declaration

	2010	2009	2008
Judgments involving friendly settlements	8	8	17
Friendly settlement decision	662	460	464
Unilateral declaration decision	553	167	93
Total decisions	1215	627	557
Grand Total	1223	635	574



²² Data obtained from the Registry of the ECtHR, Case Management and Working Methods Division.

4.3.2. Applications struck out after a decision on a friendly settlement or a decision to accept a unilateral declaration

No	State	2010			2009		2008	
		Total number of UD and FS	Unilateral declarations (UD)	Friendly settlements (FS)	UD	FS	UD	FS
1	Russian Federation	256	250	6	18	36	-	13
2	Ukraine	228	132	96	-	4	-	1
3	Turkey	195	-	195	-	55	-	36
4	Poland	139	56	83	56	122	38	55
5	Slovak Republic	56	12	44	4	10	4	12
6	"The former Yugoslav Republic of Macedonia"	48	14	34	5	19	11	34
6	Moldova	48	17	31	2	19	6	44
7	Bulgaria	46	25	21	8	17	-	12
8	Hungary	32	4	28	-	9	-	18
9	Serbia	28	5	23	11	15	3	7
10	Portugal	25	2	23	6	9	-	-
(...) ¹⁴	Greece	9	-	9	-	10	-	3
(...) ¹⁶	Slovenia	5	-	5	5	-	11	1
17	Italy	3	-	3	-	3	-	1

21. According to the data obtained from the Registry of the ECtHR, in 2010 at least 75% of the friendly settlements or unilateral declarations concerned repetitive cases: mostly cases with complaints on excessive length of judicial, civil or criminal, proceedings (35 % of all friendly settlements and decisions to accept unilateral declarations) and non-enforcement of domestic final judicial decisions (40 % of all friendly settlements and unilateral declarations),

4.4. Applications the examination of which has been adjourned following pilot-judgments

22. Since 2009 the Court has adjourned the examinations of certain types of cases, following some pilot-judgments concerning serious structural problems,

State ²³	Pending Government action	
	2010	2009
Moldova ²⁴	112	133
Romania ²⁵	644	-
Russian Federation ²⁶	229	495
Ukraine ²⁷	1 321	-

²³ ECtHR, Analysis of statistics 2010, p.13 and Analysis of statistics 2009, p. 12.

²⁴ Following the judgment *Olaru and Moldova*, judgment of 20 October 2009, application No 476/07.

²⁵ Following the judgment *Atanasiu and Poenaru v. Romania*, judgment of 12 October 2010, application No 30767/05.

²⁶ Following the judgment *Burdov v. Russia (No 2)*, judgment of 15 January 2009, application No 33509/04.

²⁷ Following the judgment *Yuriy Nikolayevich Ivanov v. Ukraine*, judgment of 15 October 2009, application No 40450/04.

4.5. Analysis of the violations of the Convention by state with respect to the 12 states referred to in Section 3²⁸

1. Italy

Number of judgments

in 2010: **98**

In 2009: 68

In 2008: 82

Judgments finding at least one violation

in 2010: **61**

In 2009: 61

In 2008: 72

Italy	Art.6 Length of proceedings	Art. 6 Right to a fair trial	Art.6 Non execution	Art. 8 Right to respect private and family life	P1-1 Right of property	Art. 13 Right to an effective remedy	Art. 3 Inhuman or degrading treatment
Number of judgments 2010	44	9	5 ²⁹	3	6	0	1
Number of judgments 2009	12	11	-	27	16	15	10
Number of judgments 2008	51	6	-	13	8	7	2

23. On 1 April 2011, Italy had **2,482** pending cases before the Committee of Ministers, including **2,433** clone cases. According to the report by Mr Pourgourides, in Italy, long-standing issues concern the excessive length of judicial proceedings and lack of an effective remedy remain, and the practice known as "indirect expropriation" (case *Belvedere Alberghiera SRL v. Italy*), The expulsion of foreign nationals is also an issue of concern.

2. Turkey

Number of judgments

In 2010: **278**

In 2009: 356

In 2008: 264

Judgments finding at least one violation

In 2010: **228**

In 2009: 341

In 2008: 257

Turkey	Art.6 Length of proceedings	Art. 5 Right to liberty and security	Art. 6 Right to a fair trial	Art.3 Inhuman or degrading treatment	P1-1 Right of property	Art. 3 Lack of effective investigation	Art. 10 Freedom of assembly and association	Art. 8 Right to respect for private and family life
Number of judgments 2010	83	80	42	32	30	24	19	5
Number of judgments 2009	95	88	126	30	86	26	12	22
Number of judgments 2008	64	64	75	30	42	24	20	11

²⁸ According to the Annual Reports of the European Court of Human Rights from 2008 to 2010 and to the order from Section 3.2 of this document.

²⁹ This column appeared in the Annual Report only in 2010. Previously, the judgments concerning non execution of domestic final decisions had been counted under other violations of Article 6.

24. On 1 April 2011, Turkey had **1,570** pending cases before the Committee of Ministers, including **1,427** clone cases³⁰. In Mr Pourgourides' report on the implementation of judgments of the European Court of Human Rights (in addition to the urgent need to ensure the proper functioning of the judicial system: see § 7,8 of Resolution 1787 (2011)), the following main issues had been identified³¹:

- unfairness if criminal proceedings in cases where the applicants were convicted on the basis of statements taken under duress and in the absence of a lawyer (violations of Article 3 and 6 of the Convention);
- repeated imprisonment for conscientious objection to military service,
- freedom of expression;
- excessive length of detention on remand;
- actions of security forces.

3. Russian Federation

Number of judgments	judgments finding at least one violation
In 2010: 217	In 2010: 204
In 2009: 219	in 2009: 210
In 2008: 244	In 2008: 233

Russian Federation	Art.3 Inhuman or degrading treatment	Art. 5 Right to liberty and security	Art. 6 Right to a fair trial	Art. 13 Right to an effective remedy	P1-1 Right of property	Art. 2 Lack of effective investigation	Art. 2 Right to life	Art.6 Length of proceedings
Number of judgments 2010	102	89	55	55	44	37	34	29
Number of judgments 2009	84	109	74	73	49	58	56	34
Number of judgments 2008	63	67	159	59	122	41	37	20

25. On 1 April 2011, the Russian Federation had **946** pending cases before the Committee of Ministers, including **853** clone cases. In Mr Pourgourides' report on the implementation of judgments of the European Court of Human Rights, the following main issues had been identified:

- non-enforcement of domestic judicial decisions;
- violations of the principle of legal certainty on account of the quashing of final judicial decisions through the "supervisory review" procedure;
- poor conditions of detention on remand, in particular in pre-trial detention centres;
- excessive length of and lack of relevant and sufficient reasons for detention on remand;
- torture and ill-treatment in police custody and lack of an effective domestic investigation in this respect;
- several violations of the Convention due to the actions of the security forces in the Chechen Republic.

4. Poland

Number of judgments	judgments finding at least one violation
in 2010: 107	in 2010: 87
In 2009: 133	In 2009: 123
In 2008: 141	In 2008: 129

³⁰ Data obtained from the website of the Department for Execution of ECtHR judgments': http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=&StateCode=ROM&SectionCode=

³¹ See also Appendix II.

Poland	Art.6	Art. 6	Art. 5	Art. 8
	Length of proceedings	Right to a fair trial	Right to liberty and security	Right to respect private and family life
Number of judgments 2010	37	20	14	12
Number of judgments 2009	50	21	35	12
Number of judgments 2008	63	9	47	17

26. On 1 April 2011, Poland had **759** pending cases before the Committee of Ministers, including **689** clone cases. According to the report on the implementation of judgments of the European Court of Human Rights, by Mr Pourgourides, the main issues relating to Poland were :

- excessive length of proceedings and lack of an effective remedy;
- excessive length of detention on remand;
- improper conditions of detention, particularly due to overcrowding, and lack of adequate medical treatment of detainees requiring special care in view of their state of health.

5. Ukraine

Number of judgments

in 2010: **109**
In 2009: 126
In 2008: 110

Judgments finding at least one violation

in 2010: **107**
In 2009: 126
In 2008: 110

Ukraine	Art.6	Art. 5	Art.3	Art. 6	Art. 13	Art. 3	P1-1
	Length of proceedings	Right to liberty and security	Inhuman or degrading treatment	Right to a fair trial	Right to an effective remedy	Lack of effective investigation	Right of property
Number of judgments 2010	60	43	24	15	14	9	4
Number of judgments 2009	35	27	9	69	26	2	58
Number of judgments 2008	32	14	4	61	15	4	46

27. On 1 April 2011, Ukraine had **714** pending cases before the Committee of Ministers, including **648** clone cases. According to the report on the implementation of judgments of the European Court of Human Rights, by Mr Pourgourides, the main issues were:

- non-enforcement of domestic judicial decisions;
- length of civil and criminal proceedings;
- issues concerning detention on remand (conditions of detention on remand, its unlawfulness and excessive length);
- ill-treatment by police and lack of procedural safeguards in this respect;
- unfair trial, inter alia, due to lack of impartiality and independence of judges.

6. Romania

Number of judgments

In 2010: **143**
In 2009: 168
In 2008: 199

judgments finding at least one violation

In 2010: **135**
In 2009: 153
In 2008: 189

Romania	P1-1 Right of property	Art. 6 Right to a fair trial	Art.3 Inhuman or degrading treatment	Art. 5 Right to liberty and security	Art.6 Length of proceedings	Art. 8 Right to respect for private and family life	Art. 14 Prohibition of discrimination
Number of judgments in 2010	58	60 ³²	22	17	16	2	1
Number of judgments 2009	92	56	14	19	16	12	5
Number of judgments 2008	129	77	7	17	25	7	13

28. On 1 April 2011, Romania had **584** pending cases before the Committee of Ministers, including **501** clone cases. According to the report on the implementation of judgments of the European Court of Human Rights, by Mr Pourgourides, the following main issues had been identified :

- failure to restore or compensate for nationalized property;
- excessive length of judicial proceedings and lack of effective remedy;
- non-enforcement of domestic judicial decisions;
- poor conditions of detention,

7. Greece

Number of judgments

In 2010: **56**

In 2009: **75**

In 2008: **74**

Judgments finding at least one violation

In 2010: **53**

In 2009: **69**

In 2008: **73**

Greece	Art.6 Length of proceedings	Art. 13 Right to an effective remedy	Art. 6 Right to a fair trial	Art. 3 Inhuman or degrading treatment	Art. 5 Right to liberty and security	Art. 3 Lack of effective investigation
Number of judgments 2010	33	17	8	5	4	2
Number of judgments 2009	41	8	16	5	10	0
Number of judgments 2008	53	14	12	1	1	0

29. On 1 April 2011, Greece had **383** pending cases before the Committee of Ministers, including **334** clone cases. According to the report on the implementation of judgments of the European Court of Human Rights by Mr Pourgourides, the main issues relating to Greece were:

- excessive length of proceedings and lack of an effective remedy;
- use of lethal force and ill-treatment by members of law enforcement officials and lack of effective investigation into such abuses.

8. Bulgaria

Number of judgments

in 2010: **81**

In 2009: **63**

In 2008: **60**

Judgments finding at least one violation

in 2010: **69**

In 2009: **61**

In 2008: **51**

³² This number also includes 30 judgments concerning non-enforcement of final domestic decisions.

Bulgaria	Art.6 Length of proceedings	Art. 13 Right to an effective remedy	P1-1 Right of property	Art. 5 Right to liberty and security	Art. 8 Right to respect for private and family life	Art. 2 Lack of effective investigation	Art. 6 Right to a fair trial	Art. 3 Inhuman or degrading treatment
Number of judgments 2010	31	27	18	14	8	7	6	5
Number of Judgments 2009	21	9	18	16	6	1	11	3
Number of Judgments 2008	25	21	3	40	7	1	8	11

30. On 1 April 2011, Bulgaria has **310** pending cases before the Committee of Ministers including **209** clone cases. According to the report by Mr Pourgourides, on the implementation of judgments of the Court, the main issues relating to Bulgaria were :

- deaths and ill-treatment taking place under the responsibility of law enforcement officials and lack of effective investigation;
- violations of the right to respect for family life due to deportation/order to leave the territory;
- excessive length of judicial proceedings and lack of an effective remedy.

9. Slovenia

Number of judgments

In 2010: 6

In 2009: 8

In 2008: 9

Judgments finding at least one violation

In 2010: 3

In 2009: 7

In 2008: 8

Slovenia	Art.6 Length of proceedings	Art. 13 Right to an effective remedy	Art. 6 Right to a fair trial	Art. 8 Right to respect private and family life
Number of judgments 2010	2	3	0	1
Number of judgments 2009	4	4	1	1
Number of judgments 2008	7	8	0	0

31. On 1 April 2011, Slovenia has **219** pending cases before the Committee of Ministers, including **212** clone cases. The main issue relating to Slovenia is the excessive length of proceedings and lack of an effective remedy.

10. Hungary

Number of judgments

In 2010: **21**

In 2009: 29

In 2008: 44

Judgments finding at least one violation

In 2010: **21**

In 2009: 27

In 2008: 43

Hungary	Art.6 Length of proceedings	Art. 8 Right to respect private and family life	Art. 6 Right to a fair trial	Art. 10 Freedom of expression
Number of judgments 2010	14	3	1	0
Number of judgments 2009	20	0	3	3
Number of judgments 2008	39	1	0	1

32. On 1 April 2011, Hungary had **181** pending cases before the Committee of Ministers, including **167** clone cases. The main issue relating to Hungary is the excessive length of proceedings.

11. Moldova

Number of judgments

In 2010: **28**

In 2009: **30**

In 2008: **33**

Judgments finding at least one violation

In 2010: **20**

In 2009: **29**

In 2008: **28**

Moldova	Art.3 Inhuman or degrading treatment	Art. 11 Freedom of assembly and association	Art. 3 Lack of effective investigation	Art. 2 Lack of effective investigation	Art. 13 Right to an effective remedy	Art. 6 Right to a fair trial	P1-1 Right of property	Art. 5 Right to liberty and security	Art. 10 Freedom of expression
Number of judgments 2010	7	5	3	3	3	2	1	2	1
Number of judgments 2009	6	4	4	0	6	12 + 3 (length of proceedings)	8	7	3
Number of judgments 2008	2	1	2	0	5	15 + 3 (length of proceedings)	9	1	3

33. On 1 April 2011, Moldova had **168** pending cases before the Committee of Ministers, including **116** clone cases. According to the report by Mr Pourgourides, on the implementation of the judgments of the Court, the main issues relating to Moldova were :

- non-enforcement of domestic judgments;
- unlawful pre-trial detention;
- ill-treatment by police;
- poor conditions of detention on remand and in prison.

12. Slovak Republic

Number of judgments

In 2010: **40**

In 2009: **39**

In 2008: **15**

judgments finding at least one violation

In 2010: **40**

In 2009: **38**

In 2008: **12**

Slovak Republic	Art.6 Length of proceedings	Art. 5 Right to liberty and security	Art. 13 Right to an effective remedy	Art. 6 Right to a fair trial	Art. 8 Right to respect private and family life
Number of judgments 2010	29	10	7	2	2
Number of judgments 2009	29	0	2	4	4
Number of judgments 2008	11	1	0	0	0

34. On 1 April 2011, Slovak Republic had **144** pending cases before the Committee of Ministers, including **132** clone cases. The main issue relating to Slovak Republic is the excessive length of proceedings and lack of an effective remedy.

Appendix I

Background documents of the Parliamentary Assembly

- Report on the Implementation of judgments of the European Court of Human Rights and Addendum
Doc, 12455: <http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12455.pdf>
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Christos POURGOURIDES
- Implementation of judgments of the European Court of Human Rights
Resolution 1787 (2011):
[http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1787,htm](http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1787.htm)
- Implementation of judgments of the European Court of Human Rights
Recommendation 1955 (2011):
[http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/EREC1955,htm](http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/EREC1955.htm)
- The future of the Strasbourg Court and enforcement of ECHR standards: reflections on the Interlaken process – Preparatory contribution of the Assembly to the High Level Conference on the Future of the European Court of Human Rights, Interlaken, Switzerland, 18-19 February 2010 (Document AS/Jur (2010) 06
http://assembly.coe.int/CommitteeDocs/2010/20100121_ajdoc06%202010.pdf)

Appendix II

Summary of the principal problems encountered in the execution of the judgments of the European Court of Human Rights in respect of nine State Parties of the ECHR (*Extract of the report on the "implementation of judgments of the European Court of Human Rights" and Addendum, Doc, 12455 & Addendum thereto*)

STATE PARTY	LEADING CASE	CASE DESCRIPTION
Bulgaria	Al-Nashif and others v Bulgaria (Application No, 50963/99, judgment of 20/09/2002), and 4 other judgments	Violations of the right to respect for family life due to deportation/order to leave the territory.
	Djanzozov v Bulgaria (Application No, 45950/99, judgment of 08/10/2004), and 14 other judgments,	Excessive length of civil proceedings and lack of an effective remedy.
	Kitov v Bulgaria (Application No, 37104/97, judgment of 03/07/2003), and 34 other judgments,	Excessive length of criminal proceedings and lack of an effective remedy.
	Velikova v, Bulgaria (Application No, 41488/98, judgment of 18/05/2000, and 14 other judgments; Interim Resolution CM/Res/DH(2007)107	Cases principally concerning deaths or ill-treatment which took place under the responsibility of the forces of order.
Greece	Makaratzis v, Greece, (Application No, 50385/99, judgment of 20/12/2004), and 10 other judgments,	Use of lethal force and ill-treatment by law enforcement officials and lack of effective investigation into such abuses.
	Manios v, Greece, (Application No, 70626/01, judgment of 11/03/2004, and 182 other judgments; Interim Resolution CM/ResDH(2007)74,	Excessive length of judicial proceedings.
Italy	Belvedere Alberghiera S,R,L v, Italy (Application No, 31524/96, judgments of 30/05/2000, and of 30/10/2003 and 84 other judgments; Interim Resolution CM/ResDH(2007)3	Unlawful deprivation of land by local authorities because of a judge-made rule, the "constructive-expropriation rule", which precludes restitution if works commenced in the public interest have been completed.
	Ben Khemais v Italy (Application No, 246/07, judgment of 06/07/2009); Interim Resolution CM/ResDH(2010)83, Saadi v Italy (Application No, 37201/06, judgment of 28/02/2008), and 9 other judgments,	Rule 39 of the Rules of the Court and expulsion of foreign nationals.
	Ceteroni v Italy (Application No, 22461/93, judgment of 15/11/1996), and 2183 other judgments; Interim Resolution CM/ResDH(2009)42,	Excessive length of judicial proceedings and lack of an effective remedy.
	Luordo v, Italy (Application No, 32190/96, judgment of 17/07/03, and 13 other judgments; Interim Resolutions CM/ResDH(2007)27 and CM/ResDH(2009)42	Restriction of the applicants' individual rights following bankruptcy proceedings.
	Mostacciolo Giuseppe v Italy (Application No, 64705/01, judgment of 29/03/2006), and 83 other judgments; Interim Resolution CM/ResDH(2009)42,	Excessive length of judicial proceedings and lack of an effective remedy.
Moldova	Ciorap v Moldova (Application No, 12066/02, judgment of 19/06/2007, and 4 other judgments,	Poor conditions of detention and lack of an effective remedy.
	Corsacov v Moldova (Application No, 18944/02, judgment of 04/07/2007), and 3 other judgments,	Ill-treatment by police.
	Oferta Plus S,R,L, v Moldova (Application No, 14385/04, judgments of 19/12/2006, and 12/02/2008, final on 07/07/20080),	Right to a fair hearing and peaceful enjoyment of possessions.
	Olaru and others v Moldova (Application No, 476/07, judgment of 06/04/2010),	Non-enforcement of domestic final judgments.
	Sarban (Application No 3456/05, judgment of 04/10/2005) and 9 other judgments,	Various violations in relation to arrest and detention on remand.
Poland	Bączkowski and others v Poland (Application No, 1543/06, judgment of 03/05/2007),	Violation of the right to freedom of assembly and lack of effective remedy in this respect.
	Fuchs v Poland (Application No, 33870/96, judgment of 11/05/2003), and 53 other judgments,	Excessive length of proceedings and right to an effective remedy.
	Kaprykowski v Poland (Application No, 23052/05, judgment of 03/02/2009, and 2 other judgments,	Poor conditions of detention.
	Kudła v, Poland (Application No, 30210/96, judgment of 26/10/00 - Grand Chamber), and 53 other judgments;	Excessive length of criminal proceedings and lack of an effective remedy in this respect.

	Interim Resolution CM/ResDH(2007)28	
	Matyjek v Poland (Application No, 38104/03, judgment of 24/04/2007, and 4 other judgments,	Unfairness of "lustration" proceedings.
	Podbielski v, Poland (Application No, 27916/95, judgment of 30/10/98), and 190 other judgments; Interim Resolution CM/ResDH(2007)28	Excessive length of civil proceedings.
	Trzaska v, Poland (Application No, 25792/94, judgment of 11/07/00), and 150 other judgments; Interim Resolution CM/ResDH(2007)75	Excessive length of detention on remand.
Romania	Bragadireanu v Romania (Application No, 22088/04, judgment of 06/03/2008), and 1 other judgment,	Poor conditions of detention.
	Nicolau v Romania (Application No, 1295/02, judgment of 03/07/2006), and 34 other judgments,	Excessive length of civil proceedings and lack of an effective remedy.
	Rotaru v, Romania (Application No, 28341/95, judgment of 04/05/00 - Grand Chamber); Interim Resolution ResDH(2005)57	Violation of the right to respect for private life due to the lack of sufficient safeguards in national legislation against abuse as regards the way in which the Romanian Intelligence Service gathers, keeps and uses information.
	Sacaleanu v Romania (Application No, 73970/01, judgment of 06/12/2005), and 6 other judgments,	Non-enforcement of domestic final judicial decisions.
	Stoianova and Nedelcu v Romania (Application No, 77571/01, judgment of 04/11/2004), and 9 other cases,	Excessive length of criminal proceedings and lack of an effective remedy.
	Străin and others v Romania (Application No, 57001/00, judgment of 30/11/2005), and 120 other judgments, Viasu v Romania (Application No, 75951/00, judgment of 09/03/2009), and 5 other judgments,	Failure to restore or compensate for nationalised property.
Russian Federation	Burdov (No.2) v Russian Federation (Application No, 33509/04, judgment of 15/01/2009), and 210 other judgments; Interim Resolution CM/ResDH(2009)43 and CM/ResDH(2009)158,	Non-enforcement of domestic final judgments.
	35. Kalashnikov v, the Russian Federation (Application No, 47095/99, judgment of 15/07/02, and 31 other judgments; Interim Resolution ResDH(2003)123	Poor conditions of detention on remand and its excessive length.
	Mikheyev v Russian Federation (Application No, 77617/01, judgment of 26/01/2006, and 8 other judgments,	Ill-treatment in police custody and lack of an effective investigation in this respect.
	Ryabykh v, the Russian Federation (Application No, 52854/99, judgment of 24/07/03, and 55 other judgments; Interim Resolution ResDH(2006)1	Violation of the principle of legal certainty on account of the quashing of final domestic judgments through the supervisory review procedure.
	Khashiyev v, the Russian Federation (Application No, 57942/00, judgment of 24/02/2005) and 116 other judgments,	Various violations of the Convention resulting from and/or relating to the actions of the security forces in the Chechen Republic (mainly unjustified use of force by members of the security forces, disappearances, unacknowledged detentions, torture and ill-treatment, unlawful search and seizure and destruction of property).
Turkey	Aksoy v, Turkey (Application No, 21987/93, judgment of 18/12/96), and 203 other judgments; Interim Resolution ResDH(2005)43 and CM/ResDH(2008)69,	Various violations of the Convention resulting from actions of the security forces, in particular in the southeast of Turkey (unjustified destruction of property, disappearances, infliction of torture and ill-treatment during police custody and killings committed by members of security forces, subsequent lack of effective investigations into the alleged abuses).
	Bati v Turkey (Application No, 33097/96, and 57834/00, judgment of 03/06/2004), and 60 other judgments,	Lack of independence in investigating authorities dealing with actions of security forces,
	Cyprus v, Turkey (Application No, 25781/94, judgment of 10/05/01 - Grand Chamber); Interim Resolutions ResDH(2005)44 and CM/ResDH(2007)25	Various violations of the Convention relating to the situation in the northern part of Cyprus following Turkish military operation in 1974 (missing persons, living conditions of Greek Cypriots in the northern part of Cyprus, the rights of Turkish Cypriots living in the northern part of Cyprus, and homes and property of displaced persons).
	İnçal v, Turkey (Application No, 22678/93, judgment of 09/06/98), and 93 other judgments; Interim Resolutions ResDH(2001)106 and ResDH(2004)38	Unjustified interferences in the freedom of expression, in particular on account of their conviction by state security courts following the publication of articles and books or the preparation of messages addressed to a

		public audience.
	Halise Demirel v Turkey (Application No, 39324/98, judgment of 28/01/2003) and Cahit Demirel v Turkey (Application No, 18623/03, judgment of 07/07/2009), and 121 other judgments,	Excessive length of detention on remand.
	Hulki Güneş v, Turkey (Application No, 28490/95, judgment of 19/06/03, and 3 other judgments; Interim Resolutions ResDH(2005)113, CM/ResDH(2007)26 and CM/ResDH(2007)150	Lack of judicial independence and impartiality, unfairness of judicial proceedings, ill-treatment inflicted in police custody.
	Oya Ataman v Turkey (Application No, 74552/01, judgment of 05/03/2007), and 19 other cases;	Abusive use of force by security force in dispersing peaceful demonstrations.
	Ülke v, Turkey (Application No, 39437/98, judgment of 24/01/06, Interim Resolutions CM/ResDH(2007)109, CM/ResDH(2009)45, and DD(2009)56,	Degrading treatment of the applicant as a result of his repeated convictions and imprisonment for having refused to perform military service.
	Xenides-Arestis v, Turkey (Application No, 46347/99, judgments of 22/12/05, and of 07/12/06, Interim Resolution CM/ResDH(2008)99, and DD(2009)540	Violation of the right to respect for private life due to continuous denial of the applicant's access to her property in the northern part of Cyprus and consequent loss of control thereof.
Ukraine	Afanasyev v Ukraine (Application No, 387722/02, judgment of 05/04/2005), and 6 other judgments;	Ill-treatment by police and lack of procedural safeguards.
	Doronin v Ukraine (Application No, 16505/02, judgment of 19/02/2009), and 6 other judgments,	Unlawful and/or lengthy detention on remand.
	Gongadze v, Ukraine (Application No, 34056/02, judgment of 08/11/05, Interim Resolutions CM/ResDH(2008)35 and CM/ResDH(2009)74,	Failure to protect life, failure to carry out an effective investigation into a death, lack of an effective remedy in this respect, attitude of the investigation authorities towards the applicant and her family amounting to degrading treatment.
	Nevmerzhitsyi v Ukraine (Application No, 54835/00, judgment of 09/09/2004), and 2 other judgments;	Poor conditions of detention on remand
	Salov v Ukraine (Application No, 65518/01, judgment of 06/11/2005), and 1 other judgment,	Lack of independence and impartiality of tribunals.
	Svetlana Naumenko v Ukraine (Application No, 41984/98, judgment of 09/11/2004), and 81 other judgments,;	Excessive length of civil and criminal proceedings.
	Yuriy Nikolayevich Ivanov v Ukraine (Application No, 40450/04, judgment of 15/01/2010), and Zhovner v, Ukraine (Application No, 56848/00, judgment of 29/06/04, and 378 other judgments; Interim Resolution CM/ResDH(2008)1,	Non-enforcement of domestic final judgments.