DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS

LEGAL AND HUMAN RIGHTS CAPACITY BUILDING DEPARTMENT

NATIONAL HUMAN RIGHTS STRUCTURES
PRISONS AND POLICE DIVISION

NATIONAL HUMAN RIGHTS STRUCTURES UNIT

Strasbourg, 4 March 2011

Regular Selective Information Flow (RSIF) for the attention of the National Human Rights Structures (NHRSs)

Issue n°58 covering the period from 31 January to 13 February 2011

"Promoting independent national non-judicial mechanisms for the protection of human rights, especially for the prevention of torture"
("Peer-to-Peer II Project")

Joint European Union – Council of Europe Programme

*The **selection** of the information contained in this Issue and deemed relevant to NHRSs is made under the responsibility of the NHRS Unit*

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Introduction

This Issue is part of the "Regular Selective Information Flow" (RSIF). Its purpose is to keep the National Human Rights Structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the National Human Rights Structures Unit of the DG-HL (NHRS Unit) carefully selects and tries to present in a user-friendly manner. The information is sent to the Contact Persons in the NHRSs who are kindly asked to dispatch it within their offices.

Each issue covers two weeks and is sent by the NHRS Unit to the Contact Persons a fortnight after the end of each observation period. This means that all information contained in any given issue is between two and four weeks old.

Unfortunately, the issues are available in English only for the time being due to limited means. However, the majority of the documents referred to exists in English and French and can be consulted on the websites that are indicated in the Issues.

The selection of the information included in the Issues is made by the NHRS Unit. It is based on what is deemed relevant to the work of the NHRSs. A particular effort is made to render the selection as targeted and short as possible.

Readers are expressly encouraged to give any feed-back that may allow for the improvement of the format and the contents of this tool.

The preparation of the RSIF is funded under the so-called Peer-to-Peer II Project, a European Union – Council of Europe Joint Project entitled "Promoting independent national non-judicial mechanisms for the protection of human rights, especially the prevention of torture".

Part I: The activities of the European Court of Human Rights

We invite you to read the INFORMATION NOTE No. 137 (provisional version) on the Court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases which the Jurisconsult, the Section Registrars and the Head of the aforementioned Division examined in January 2011 and sorted out as being of particular interest

A. Judgments

1. Judgments deemed of particular interest to NHRSs

The judgments presented under this heading are the ones for which a separate press release is issued by the Registry of the Court as well as other judgments considered relevant for the work of the NHRSs. They correspond also to the themes addressed in the Peer-to-Peer Workshops. The judgments are thematically grouped. The information, except for the comments drafted by the NHRS Unit, is based on the press releases of the Registry of the Court.

Some judgments are only available in French.

Please note that the Chamber judgments referred to hereunder become final in the circumstances set out in Article 44 § 2 of the Convention: "a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or c) when the panel of the Grand Chamber rejects the request to refer under Article 43".

Note on the Importance Level:

According to the explanation available on the Court's website, the following importance levels are given by the Court:

1 = High importance, Judgments which the Court considers make a significant contribution to the development, clarification or modification of its case-law, either generally or in relation to a particular **State.**

2 = Medium importance, Judgments which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law.

3 = Low importance, Judgments with little legal interest - those applying existing case-law, friendly settlements and striking out judgments (unless these have any particular point of interest).

Each judgment presented in section 1 and 2 is accompanied by the indication of the importance level.

- **Conditions of detention / Ill-treatment**

Premininy v. Russia (no. 44973/04) (Importance 2) – 10 February 2011 – Two violations of Article 3 – (positive obligation and procedural)) – (i) Domestic authorities' failure to secure the first applicant's physical and psychological integrity against ill-treatment by his cellmates in prison – (ii) Lack of an effective investigation – No violation of Article 3 (substantive) – Lack of sufficient evidence to conclude that the applicant had been ill-treated by prison warders – Violation of Article 3 (procedural) – Lack of an effective investigation into allegations of ill-treatment by prison warders – Violation of Article 5 § 4 – Domestic authorities' failure to speedily examine the lawfulness of the applicant's detention

In January 2002, criminal proceedings were instituted against the applicant on suspicion of having broken into the online security system of an American bank, having stolen its client database and extorted money in exchange for the promise not to publish that database on the Internet. Charged with aggravated extortion, he was placed in detention in May 2002.

The applicants complained of alleged beatings of the first applicant by his cellmates and of the lack of an effective investigation into those events. The applicant also alleged that he had been severely beaten up by warders and that the investigation had not led to the punishment of those responsible. He further complained that he had been denied effective judicial review of his application for release from detention pending trial, as it had not been examined speedily by the domestic courts.

Article 3 (alleged violence by the cellmates)

The Court was not convinced by the Government's argument that the applicant's injuries resulted from a one-off fight with one of his cellmates. The prison doctor had concluded that the numerous injuries to various parts of the applicant's body were evidence of systematic beatings sustained within the week preceding the medical examination. A psychiatric examination had revealed a strong link between the deterioration of the applicant's mental health and a traumatic experience. The Court concluded that he had been a victim of systematic ill-treatment at the hands of his cellmates, which lasted for at least a week. That treatment had to have caused him feelings of fear, anguish and inferiority capable of humiliating and debasing him. The Court found that those elements were sufficiently serious to render such treatment contrary to the guarantees of Article 3. The court recalled that it was the State's responsibility to prevent and address violence among inmates in prisons in accordance with its obligation to respect, protect and fulfil the right of individuals not to be subjected to torture or to inhuman or degrading treatment. It followed from the materials before the Court that the authorities had known that acts of violence were being committed against the applicant. Only after the incident of 10 June 2002, which the applicant had described as the culmination of the ill-treatment, had he been removed from the cell. No meaningful attempts had been made to provide him with psychological rehabilitation in the aftermath of the events. The Court concluded that there had been a violation of Article 3 in respect of the authorities' failure to fulfil their positive obligation to adequately secure the applicant's physical and psychological integrity. The Court observed that the prosecution authorities had been particularly slow in opening a criminal investigation into the alleged ill-treatment. The initial decision not to open proceedings, based on the unreasonable finding that the applicant had had a sporadic fight with his cellmate, was quashed more than two years later. That delay had made it impossible to secure evidence of the incident and to bring the perpetrators to justice within the statutory limitation period. The Court was also not convinced that, once instituted, the proceedings were conducted in a diligent manner. While the decisions ordering the reopening of the proceedings consistently referred to the need for further and more thorough investigation, it did not appear from the case file that its scope had evolved. The investigation was still pending without any evidence of progress being made. The Court concluded that there had been a violation of Article 3 in respect of the ineffective investigation into the applicant's allegations of systematic ill-treatment by other inmates.

Article 3 (alleged violence by the warders)

Noting that the parties disagreed over the incident that led to the applicant's injuries sustained on 14 June 2002, the Court observed that the medical evidence before it did not allow either version of the events to be excluded. There was further no other evidence of ill-treatment, such as testimony by an independent witness, which could have provided support to the applicant's account. The Government's submissions had moreover been corroborated by statements from other inmates detained together with the applicant. There was thus no evidential basis sufficient to enable the Court to find beyond reasonable doubt that the applicant had been subjected to the alleged ill-treatment by the warders. There had been no violation of Article 3 in this respect. As regards the investigation into that alleged ill-treatment, the Court noted that it had been riddled with the same defects as those which the Court had identified in the investigation into the applicant's allegations about his cellmates. The Court concluded that there had been a violation of Article 3 in respect of the ineffective investigation.

Article 5 § 4

The Court observed that, taken together, it had taken the domestic courts almost ten months to examine the two requests for release. Nothing suggested that the applicant or his lawyer had caused delays in the examination of the request. The Court found that that period was not compatible with the requirement of Article 5 § 4 that the lawfulness of a placement in detention should be speedily decided by a court. Moreover, the final decision about the lawfulness of the detention had been taken almost 20 months after the trial court had determined the merits of the criminal case. That significant delay rendered the judicial review of the detention ineffective. There had been a violation of Article 5 § 4.

Under Article 41 (just satisfaction) of the Convention, the Court held that Russia was to pay the applicant 40,000 euros (EUR) in respect of non-pecuniary damage.

Ebcin v. Turkey (no. 19506/05) (Importance 2) – 1 February 2011 – Violation of Articles 3 and 8 – Delayed administrative and criminal proceedings concerning an attack on the applicant had failed to provide adequate protection against a serious act of violence

In 1994 the applicant, a teacher by profession, was attacked in the street, by two individuals who threw acid in her face. She was unable to work for a year and a half, and underwent three years of therapy. She still suffers from serious physical after-effects: partial loss of movement in the left eyelid, constriction of the nostrils requiring the use of nasal tubes when sleeping, inability to close the mouth,

and a lasting tumour on the neck. In 1997 she lodged a claim for compensation. The Administrative Court allowed her claim in part, twice delivering judgments which were subsequently set aside by the Supreme Administrative Court, the second time because it found the compensation awarded to the applicant insufficient. The case was remitted to the Administrative Court, where it is still pending. In 2000 and 2008 two members of Hizbullah were charged with various offences, including the attack on the applicant. One of them had been a minor at the time of the aggression. They were tried and sentenced to sixteen years and eight months' imprisonment for undermining the constitutional order of the State by actively taking part in terrorist activities in the name of an illegal organisation. According to the case file, one of the aggressors had received the order to attack a teacher; he had chosen the applicant as his target and then recruited his accomplice and purchased the acid in a jewellery store.

The applicant complained that the authorities had failed in their obligation to protect her safety and promptly punish her aggressors.

The Turkish Government did not dispute the figures submitted by the applicant concerning attacks on teachers in the region. The Court noted that in the proceedings against the applicant's aggressors the Assize Court had attributed a large number of offences to Hizbullah. Also, the likelihood that public servants or other citizens had been threatened, aggressed or killed when the south-east of the country was prey to terrorism could not be ruled out. However, the applicant had submitted no proof of any intimidation or threats to which she might have been subjected. It could not be said with any certainty, therefore, that she, more than others, had been under any serious, foreseeable, individual threat of which the authorities were, or should have been, aware. The Court further noted that the applicant was not a public figure likely to have been singled out by Hizbullah and therefore in need of special individual protection. And general security measures had doubtlessly been stepped up at the time as the region had been under a state of emergency. The authorities could therefore not be held responsible for any failure to take steps to protect the applicant individually. An investigation had been initiated fairly promptly and carried out against a backdrop of terrorist acts perpetrated in the name of an illegal organisation, and the attack on the applicant had been investigated in that context. Her aggressors, however, had not been arrested until six years later; the proceedings against the instigator of the aggression had lasted over seven years and those against his accomplice were still pending before the Court of Cassation. Although the offenders had been sentenced to long terms of imprisonment, the Court considered that such lengthy delays in the criminal proceedings, no matter how complex the case, inevitably affected their effectiveness and the deterrent effect criminal proceedings had to have if they were to prevent crime effectively. The Turkish authorities had therefore failed to conduct effective criminal proceedings that satisfied the requirement of promptness. Although the applicant had won her case in respect of the strict liability of the State, the length of the proceedings before the administrative courts was such that it could not be said that justice had prevailed. Thirteen years on, the case was still pending before the Administrative Court and no compensation had yet been paid to the applicant. This state of affairs fell well short of the diligence required in such matters. The Court accordingly found that the administrative and criminal proceedings had failed to provide adequate protection against a serious act of violence and that there had been a violation of Articles 3 and 8. The Court ordered that the applicant be awarded 30,000 EUR for non-pecuniary damages and 2,500 EUR for costs and expenses.

Gülizar Tuncer v. Turkey (No. 2) (no. 12903/02) (Importance 2) – 8 February 2011 – Violations of Article 3 (substantive and procedural) – (i) Ill-treatment of the applicant on account of the excessive use of police force during the dispersal of a peaceful protest against F-type prisons – (ii) Lack of an effective investigation – Violation of Article 11 – Interference with the applicant's right to freedom of assembly on account of the excessive use of police force during the dispersal of a demonstration

The applicant is a lawyer and a member of the Human Rights Association. In December 2000 she took part in a procession, followed by a statement to the press, to protest about the introduction of F-type prisons in Turkey. Clashes took place between the police and the demonstrators when the protest was dispersed, and the applicant was injured.

The applicant complained about having been beaten and submitted to ill-treatment during the dispersal of the protest by the police.

The Court noted that it wasn't contested by the Turkish Government that the injuries on the applicant's body, mentioned in the medical report, had occurred during the dispersal of the protest. Therefore, the Court concluded that the treatment to which the applicant was subjected fell under the ambit of Article 3. The Court further noted that no proceedings were instituted against the applicant indicating that the use of police force was proportionate or necessary. The Court further recalled that the dispersal of a demonstration does not suffice to explain the gravity of the injuries sustained by participants to a demonstration (*Güler v. Turkey).* Thus, the excessive use of police force was disproportionate, in violation of Article 3 under its substantive limb. The Court further concluded that the investigation into

the applicant's allegations of ill-treatment was ineffective, in violation of the procedural limb of Article 3.

The Court noted that it was essential that the authorities show tolerance during peaceful demonstrations in order to guarantee the freedom of assembly protected by Article 11. Therefore the Court concluded that the excessive use of force by the police for the dispersal of the protest in which the applicant was involved was disproportionate and that it was not necessary in a democratic society, in violation of Article 11. The applicant was awarded 15,600 EUR for non-pecuniary damage and 2,500 EUR for costs and expenses.

Yazgül Yılmaz v. Turkey (no. 36369/06) (Importance 2) – 1 February 2011 – Two violations of Article 3 (substantive and procedural) – (i) Gynaecological examination of the applicant, an unaccompanied 16-year-old girl while in police custody, without her consent – (ii) Lack of an effective investigation

In 2002, when the applicant was sixteen years old, she was taken into police custody for giving assistance to the PKK (Workers' Party of Kurdistan, an illegal organisation). On the second day of her police custody a medical and gynaecological examination was requested by the police superintendant responsible for juveniles, in order to establish whether there was evidence of assault committed during the police custody and if her hymen was broken. The examination request was not signed by the applicant. The next day she was remanded in custody and criminal proceedings were brought against her in July 2002. In October 2002 she was acquitted and released. After her release, the applicant, suffering from psychological problems, went for a medical examination. A report of January 2003, drawn up by a number of doctors concluded that she was suffering from post-traumatic stress and depression. In addition, at the applicant's request, a panel of the Izmir Medical Association produced a report based on the conclusions of numerous examinations carried out between November 2002 and July 2004 by a general practitioner, an orthopaedist, a gynaecologist and a psychiatrist. This report indicated that the medical reports drawn up during the applicant's police custody did not meet the requirements of the Istanbul Protocol or the circular of the Ministry of Health concerning forensic medical services and the drafting of forensic medical reports, because they had not shown whether the applicant had sustained any physical or psychological violence. It moreover confirmed the diagnosis of post-traumatic stress disorders. In December 2004 the applicant filed a complaint for abuse of authority against the doctors who had examined her in police custody. She alleged that she had been deprived of the fundamental safeguards afforded to detainees and that she had not given her consent to the gynaecological examination. The case was entrusted to the Deputy Director for Health in the provincial governor's office. In spite of the non-compliance of the medical reports, as established by the inquiry report, he proposed that no disciplinary proceedings should be opened against the doctors, as the disciplinary offence was subject to a two-year limitation period. That proposal was accepted by the provincial governor's office and in March 2005 the public prosecutor's office terminated the proceedings. A challenge by the applicant was dismissed by the Assize Court.

The applicant complained about the manner in which the medical reports had been drawn up, about the fact that she had been subjected to a gynaecological examination without her consent and about the decision not to prosecute the doctors concerned. She also alleged that she did not have a remedy by which to assert her complaints.

The Court noted that the applicant had been detained for two days on the premises of the security police without her parents or legal representative being informed. There was nothing to suggest that the authorities had tried to obtain her consent or that of her legal representative for the gynaecological examination. The applicant had stated before the public prosecutor that she had never given her consent. In the Court's view, the obtaining of a minor's consent should have been surrounded by minimum guarantees commensurate with the importance of a gynaecological examination. At the time there had been an omission in the law as regards such examinations of female detainees, which were carried out without any safeguards against arbitrariness. Unlike other medical examinations, a gynaecological examination could be traumatising, especially for a minor, who had to be afforded additional guarantees and precautions (for example, by ensuring that consent was given at all stages and by allowing the minor to be accompanied and to choose between a male or female doctor, and by informing her of the reason for the examination, its organisation and results, as well as respecting her sense of decency). **The Court could not agree with a general practice of automatic gynaecological examinations for female detainees, for the purpose of avoiding false sexual assault accusations against police officers. Such a practice did not take account of the interests of detained women and did not relate to any medical necessity**. In that connection, moreover, the applicant had never complained of a rape during her police custody – she had alleged sexual harassment, which could certainly not be disproved by an examination of her hymen. **The Court noted with interest that the new Code of Criminal Procedure regulated, for the first time, internal bodily examinations, including of a gynaecological nature, although there was no**

specific provision for minors. The lack of fundamental safeguards during the applicant's police custody – no measure having been taken to protect her during that deprivation of liberty – had placed the applicant in a state of deep distress. The extreme anxiety that the examination must have caused her, and of which the authorities could not have been unaware given her age and the fact that she was not accompanied, enabled the Court to characterise the examination in the present case as degrading treatment, in violation of Article 3. Following the applicant's complaint, it was the Deputy Director for Health who was entrusted with the case, whereas he reported to the same hierarchy as the doctors whom he was investigating. The Court observed that it had already expressed serious doubts as to the capacity of the administrative organs concerned to conduct an independent investigation. Following the conclusion of the Deputy Director for Health that the prosecution of the doctors was time-barred, the public prosecutor had decided to discontinue the proceedings and therefore no criminal investigation had been conducted. Moreover, the report, which had found the doctors liable, had not been notified to the applicant and the doctors had thus benefited from the statute of limitations without any judicial finding as to their possible liability. Accordingly, the shortcomings in the investigation had had the result of granting virtual impunity to the presumed perpetrators of the offending acts and had rendered the criminal action – and also any civil action for compensation – ineffective, in violation of Article 3 under its procedural limb. Judge Sajó expressed a separate opinion.

Under Article 41 (just satisfaction) of the Convention, the Court held that Turkey was to pay the applicant 23,500 EUR in respect of non-pecuniary damage.

Dolgov v. Russia (no. 22475/05) (Importance 2) – 10 February 2011 – Two violations of Article 3 (substantive and procedural) – (i) Inhuman treatment inflicted on the applicant by police officers – (ii) Lack of an effective investigation – Violation of Article 5 § 1 – Unlawful detention

The applicant is currently serving prison sentences in the Tula Region for armed robbery of the cashier desk of a psychiatric hospital.

He complained that he had been ill-treated by the police after his arrest. The applicant also complained that part of his detention had been unlawful.

On the basis of all the material placed before it, the Court concluded that the Government had not satisfactorily established that the applicant's injuries were caused otherwise than – entirely, mainly, or partly – by ill-treatment he underwent while in police custody. In the instant case the Court found that the existence of physical pain or suffering is attested by the medical report and the applicant's statements regarding his ill-treatment in the police station. The Court considered the ill-treatment at issue amounted to inhuman treatment within the meaning of Article 3. Accordingly, there had been a violation of Article 3 under its substantive aspect. It was further apparent to the Court that the applicant was unable to obtain an effective review of the investigator's decisions refusing to institute criminal proceedings. Their refusal to rule on the merits of his complaints was obviously at variance with the explicit guarantee against torture and inhuman or degrading treatment in Article 21 of the Russian Constitution and also with the established practice of other Russian courts. Although in these proceedings the court of general jurisdiction is not competent to pursue an independent investigation or make any findings of fact, judicial review of a complaint has the benefit of providing a forum guaranteeing the due process of law. In public and adversarial proceedings an independent tribunal is called upon to assess whether the applicant has a prima facie case of ill-treatment and, if he has, to reverse the prosecutor's decision and order a criminal investigation. In the instant case the judicial avenue was foreclosed to the applicant. It cannot therefore be said that the applicant's right to participate effectively in the investigation was secured. The Court found that the authorities failed to carry out an effective criminal investigation into the applicant's allegations of ill-treatment, in violation of Article 3 under its procedural limb.

The Court further noted that the Town Court set the opening date for the trial and held that the defendants "should remain in custody". It did not, however, give any grounds for maintaining the custodial measure or fix a time-limit for the extended detention. Permitting a prisoner to languish in detention without a judicial decision based on concrete grounds and without setting a specific time-limit would be tantamount to overriding Article 5, a provision which makes detention an exceptional departure from the right to liberty and one that is only permissible in exhaustively enumerated and strictly defined cases. The Court considered that the decision did not comply with the requirements of clarity, foreseeability and protection from arbitrariness and that the ensuing period of the applicant's detention was not "lawful" within the meaning of Article 5 § 1. The Court found that there had been a violation of Article 5 § 1 of the Convention on account of the applicant's detention from 10 April to 4 November 2004. Under Article 41 (just satisfaction) of the Convention, the Court held that Russia was to pay the applicant 20,000 EUR in respect of non-pecuniary damage.

Kapanadze v. Russia (no. 19120/05) (Importance 2) – 10 February 2011 – Two violations of Article 3 (substantive and procedural) – (i) Inhuman treatment inflicted on the applicant by police officers – (ii) Lack of an effective investigation

The applicant is currently serving prison sentences in the Tula Region for armed robbery of the cashier desk of a psychiatric hospital.

He complained that they had been ill-treated by the police after his arrest.

The Court observed that, the applicant maintained that his injuries were the result of ill-treatment inflicted on him by police and riot-squad officers at Shatskoye district police station in the Leninskiy district of the Tula Region. He described in detail how the officers had kicked and punched him and had hit him with a chair leg. His allegation of ill-treatment coincided with the findings of the forensic expert who determined that the injuries had been caused on or around the day of the applicant's arrest. It has not been claimed that the applicant had been injured before his arrest and since he remained thereafter in custody within the exclusive control of the Russian police, strong presumptions of fact arise in respect of the injuries that occurred during his detention. The Court concluded that, taken as a whole and having regard to its purpose and severity, the ill-treatment at issue amounted to inhuman treatment within the meaning of Article 3. Accordingly, there had been a violation of Article 3 under its substantive aspect. Further the Court declared that, the applicant was unable to obtain an effective review of the investigator's decisions refusing to institute criminal proceedings. The Leninskiy District Court rejected his complaint in a laconic decision which did not contain any description of his version of events or the medical evidence or put forward any detailed response to the specific grievance and allegations raised by the applicant in his written submissions. The Tula Regional Court endorsed the District Court's decision in summary fashion, without examining the applicant's arguments in any detail. The Court could not but note also that the Tula courts did not take any measures to secure the applicant's right to effective participation in the proceedings. He was neither present nor represented before the District and Regional Courts, notwithstanding his explicit request for leave to appear and for the attendance of his representative before the appellate court. These failures further undermine the effectiveness of the domestic investigation. The Court found that the authorities failed to carry out an effective criminal investigation into the applicant's allegations of ill-treatment, in violation of Article 3 under its procedural aspect. Under Article 41 (just satisfaction) of the Convention, the Court held that Russia was to pay the applicant 8,300 EUR in respect of non-pecuniary damage and 850 EUR for costs and expenses.

Dushka v. Ukraine (no. 29175/04) (Importance 3) – 3 February 2011 – Two violations of Article 3 (substantive and procedural) – (i) Inhuman and degrading treatment inflicted on the applicant while in police custody in order to extract a confession – (ii) Lack of an effective investigation (procedural)

The applicant's mother pursued the application after the applicant's death in 2005. The applicant, a minor at the time of the events, alleged that police had ill-treated him in custody in order to make him confess to a robbery and that the ensuing investigation into his allegations had been inadequate.

The Court found that the applicant's account of how he had sustained his injuries, namely, police ill-treatment during interrogation, was sufficiently detailed, and consistent with the expert medical reports of November 2002 and January 2005. The Government, on the other hand, had failed to provide any coherent and substantiated alternative account of the relevant events, in spite of several years of investigations. The Court therefore held that the State was responsible for the applicant's injuries which he had sustained as a result of ill-treatment. Indeed, regardless of whether the police had resorted to physical violence or not, the applicant's arrest in ambiguous circumstances, as well as his administrative detention, officially declared unlawful by the domestic judicial authorities, aroused a strong suspicion that the police had arrested the applicant and placed him in detention as a means to break his moral resistance and obtain a confession. The fact that that confession had been made in a setting lacking such procedural guarantees as the presence of a lawyer, and had then been retracted upon release, also pointed to the conclusion that it might not have been given freely. The Court found that such practice, especially given the applicant's vulnerable age, qualified as inhuman and degrading treatment, in violation of Article 3. The Court noted that, although the applicant had promptly informed the authorities of his ill-treatment, the investigation had lasted more than three years and had not established what had happened to him during his arrest and custody or identified those responsible for his injuries. The Court concluded that there had been a further violation of Article 3 concerning the lack of an effective investigation into the applicant's complaint of ill-treatment while in police custody.

The Court held that Ukraine was to pay the applicant's estate 18,000 euros (EUR) in respect of non-pecuniary damage and EUR 150 to his mother in respect of costs and expenses.

- **Right to liberty and security**

[Seferovic v. Italy](#) (no. 12921/04) (Importance 2) – 8 February 2011 – Violation of Article 5 § 1 (f) – Unlawful detention pending deportation of the applicant, a woman who had recently given birth – Violation of Article 5 § 5 – Lack of adequate redress concerning the unlawfulness of the detention

The applicant is of Roma ethnic origin. She lived with her family first in Casilino 700 travellers' camp and subsequently in Casilino 900, where Rome municipality recorded her as living in 1995. She did not have any identity papers. In September 2000, fearing discrimination and persecution, if forced to return to Bosnia and Herzegovina, the applicant applied to the Italian authorities for refugee status. Her application was not forwarded to the competent commission because it contained formal defects. In September 2003 the applicant gave birth to a child, who died a few days later at the hospital. She was accompanied to the police station, where she was instructed to report to the criminal police. In November 2003 the police served her with a deportation order on the grounds that she was illegally residing in Italy and with an order for her placement in the Ponte Galeria holding centre ("the holding centre") with a view to her expulsion. She was transferred to the holding centre the same day. On 13 November 2003 the Rome District Court confirmed the applicant's placement in the holding centre and on 3 December 2003 extended the measure. On 24 December 2003 it stayed execution of the deportation order and ordered the applicant's immediate release. The applicant was released the same day on account of the fact that the applicant's placement and detention had been in breach of Italian law: under Law no. 286 of 1998 on immigration, her deportation should have been suspended until six months after she had given birth (that is, until 26 March 2004), regardless of the fact that the baby had died. In March 2006 the Rome Civil Court granted the applicant refugee status.

The applicant alleged that her detention in the holding centre had been unlawful and that no means had been available to her under Italian law by which to obtain redress.

The main issue to be examined by the Court was whether the order for the applicant's detention, which in turn was based on the deportation order, had constituted a lawful basis for detaining her. The Court reiterated that, in principle, the setting-aside of a detention order which had at first appeared to be valid and effective did not in itself affect the lawfulness of the preceding period of detention. However, the circumstances in this case were fundamentally different, as the order for the applicant's detention had been patently invalid from the outset. In reality, as observed by the Rome District Court in its judgment of December 2003, the applicant could not be the subject of a deportation order under Italian law as she had given birth on 26 September 2003; the fact that the baby had died did not alter that situation. The Italian authorities, who had known about the birth, had not been empowered to place the applicant in detention. There had therefore been a violation of Article 5 § 1 (f). The Court could only observe that no provision had existed in Italian law enabling the applicant to apply to the domestic authorities for compensation in respect of her unlawful detention. There had therefore also been a breach of Article 5 § 5. By way of just satisfaction, the Court held that Italy was to pay the applicant 7,500 euros (EUR) for non-pecuniary damage.

- **Right to respect for private and family life**

[Dore v. Portugal](#) (no. 775/08) (Importance 2) and [Karoussiotis v. Portugal](#) (no. 23205/08) (Importance1) – 1 February 2011 – Violation of Article 8 – Domestic authorities' failure to take effective steps to expedite the proceedings concerning their children's return, thus causing alienation of the children from their parents

The applicant in the first case, Michele Dore, is an Italian national. In 1999 a child was born of his relationship with a Portuguese national. The couple subsequently separated and in February 2006 the mother left for Portugal with the child, without informing the applicant. In September 2006 the applicant requested the assistance of the United Kingdom authorities to secure the child's return, as provided for in the Hague Convention on international child abduction ("the Hague Convention"). In June 2007 the Portuguese prosecution authorities filed an application for the child's return, in accordance with the Hague Convention. A hearing took place in the presence of the child's mother and aunt but not the applicant, who had not been notified. In July 2007 the court rejected the application for the child's return on the grounds that the child had settled down in his new environment and seemed upset at the thought of seeing his father again. In July and August 2007 the United Kingdom authorities asked their Portuguese counterparts to lodge an appeal against that decision, which they did not do. In custody proceedings opened before the Family Affairs Court in Oporto, at the mother's request, it was decided that the child would stay with his aunt on his mother's side for the time being. The applicant was granted contact rights. The proceedings are still under way.

The applicant in the second case Diana Karoussiotis is a German national. She had a son with a Portuguese national in 2001, but the couple separated and the father was deported from Germany after being convicted of drug trafficking. The son never returned from a visit to Portugal to see his father in January 2005. In March 2005 the applicant requested the assistance of the German authorities to secure the child's return, as provided for in the Hague Convention. In October 2005 the German authorities sent a request to their Portuguese counterparts for the child's return. The Braga Family Affairs Court ruled against the child's return, considering that he was not being kept in Portugal illegally. In January 2009 the Guimarães Court of Appeal found that the child had been kept in Portugal illegally but, having regard to European Council Regulation EC 2201/2003 (concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility), considered that it was in the best interests of the child that he should stay in Portugal. The judgment concluded that changing the child's surroundings and taking him away from his great grandmother, who had become his reference person, might upset his mental balance. In custody proceedings opened before the Braga Family Affairs Court in March 2005, it was decided that the child would stay with his father for the time being. The applicant asked for custody, alleging that the father had agreed. The great grandmother also applied for the child to stay with her. The proceedings are still under way. In April 2008 the applicant brought "infringement proceedings" against Portugal before the European Commission for violation of Regulation EC 2201/2003 because of the excessive length of the proceedings before the Braga court. According to the most recent information in the Court's possession, those proceedings are still pending.

The applicants complained of negligence on the part of the Portuguese authorities in respect of their requests for their children's return.

<u>Admissibility of the Karoussiotis v. Portugal application</u>

The Court essentially had to decide whether the fact that the applicant had previously lodged "infringement proceedings" against Portugal before the European Commission made her application to the Court inadmissible because it had "already been submitted to another procedure of international investigation or settlement" (Article 35). That would indeed have been the case if "infringement proceedings" could be considered, from the procedural viewpoint and that of their potential outcome, as individual applications within the meaning of Article 34 of the Convention. However, the Court found that this was not the case. The sole purpose of "infringement proceedings" was to secure voluntary compliance by the State concerned with the requirements of European Union law. The European Commission had discretion to launch "infringement proceedings" before the Court of Justice of the European Union, whose judgment had no effect on the complainant's rights and could not award any individual redress (the Court of Justice could only oblige the State concerned to comply with its obligations). The applicant could therefore not be considered to have already submitted her application "to another procedure of international investigation or settlement". It was therefore admissible.

<u>Alleged violation of the right to respect for private and family life (in both cases)</u>

The Court reiterated that Article 8 implied the right for a parent to have measures taken with a view to being reunited with his or her child and an obligation for the national authorities to take such action (but this was not an absolute right; among other things, the State had to take the best interests of the child into account). The Court also reiterated that proceedings in this field should be dealt with promptly as the passage of time could have irremediable consequences for the child's relationship with the remote parent. Indeed, both the Hague Convention and Regulation EC 2201/2003 required the requested authorities to take urgent steps to secure the child's return. Delays of more than six weeks could give rise to requests for explanations. In *Mr. Dore's case* the Court noted that it had taken almost six months for the Portuguese authorities to locate the child, even though he was a pupil at the school Mr. Dore had suggested from the outset. It had then taken them almost three months more to submit a formal request for the child's return. Those two delays alone were sufficient to conclude that the Portuguese authorities had not taken sufficient steps to deal with the matter with the requisite speed. Lastly, the time it took the Portuguese authorities to respond to the United Kingdom authorities' request to lodge an appeal had further delayed matters. In the *Karoussiotis case* the Court noted that the proceedings concerning the request for the child's return to Germany had taken about three years and ten months in all, at two levels. There was no doubt that the length of the proceedings had penalised the applicant, particularly as her child had been less than four years old when he had left for Portugal. As to the proceedings to determine where the child should live, they were still pending more than five years and eight months later. In these two cases the Portuguese authorities had not taken effective steps to expedite the proceedings, and this had alienated the children from their parents, the applicants. There had therefore been a violation of Article 8 in respect of both Mr. Dore and Ms Karoussiotis. In the case of *Dore v. Portugal*, Judge Jočienė expressed a separate opinion.

Dubetska and Others v. Ukraine (no. 30499/03) (Importance 2) – 10 February 2011 – Violation of Article 8 – Domestic authorities' failure to provide the applicant families with effective solutions concerning the environmental pollution caused by the mine and factory close to their homes

The applicants are members of two extended families. A State-owned coal mine started operating in 1960 in the vicinity of the applicants' houses, and a mine spoil heap was erected around 100 metres away from the Dubetska-Nayda family house. In 1979, the State further opened a coal processing factory which subsequently produced a 60-metre spoil heap about at around 400 metres from the families' houses. The applicants complained numerous times to the authorities about the damage to their health and houses as a result of the pollution: chronic health problems including bronchitis, emphysema and carcinoma. In addition, for years they had irregular and insufficient access to drinking water. They could not relocate as they lacked the resources to buy a new home, and their current houses had lost market value because of the pollution. In 1994, the authorities ordered the factory director to provide the applicants with housing in a safe area but without success. As there was no improvement in the applicants' situation, each family brought civil proceedings in court seeking resettlement. The courts found in favour of the Dubetska-Nayda family in a judgment of December 2005, which was never enforced, and against the Gavrylyuk-Vakiv family in a judgment of 2004, which became final in 2007.

The applicants complained that they were suffering from environmental pollution caused by the mine and the factory near their home and that the State had done nothing to remedy the situation.

The Court found that the operation of the mine and factory, and especially their spoil heaps, had contributed to the problems experienced by the applicants, namely a deterioration of their health as a result of the polluted water, air and soil, and damage to their houses as a result of soil subsidence caused by the deposit of toxic substances in the earth around the two industrial facilities. The Court also noted that a number of times over the years, the authorities had considered it necessary to resettle the applicants, as the Ukrainian courts had confirmed in a judgment in respect of the Dubetska-Nayda family. As regards the Gavrylyuk-Vakiv family, the courts had justified their rejection of the resettlement request with the finding that measures had been envisaged by the authorities to reduce the pollution in the area which was expected in turn to improve their situation. As none of those measures had been implemented, however, the Court found that, for over 12 years since the entry into force of the Convention in respect of Ukraine, the applicants had been living permanently in a polluted area unfit for residential housing and their lives had been affected adversely and substantially by the mine and factory operations. The applicants had not had the resources to resettle on their own given that the value of their houses had dropped drastically because of the pollution in the area. They had needed State support in order to relocate and had been expecting such help since 1994. The authorities had been aware of the adverse environmental effects of the mine and factory but had neither resettled the applicants, nor found a different solution to diminish the pollution to levels that were not harmful to people living in the vicinity of the industrial facilities. Despite attempts to penalise the factory director and to order and bring about the applicants' resettlement, and notwithstanding that a centralised aqueduct was built by 2009 ensuring sufficient supply of fresh drinking water to the applicants, for 12 years the authorities had not found an effective solution to the applicants' situation. There had therefore been a violation of Article 8. The Court also held that by finding of a violation of Article 8 it established the Ukrainian Government's obligation to take appropriate measures to remedy the applicants' situation.

Under Article 41 (just satisfaction) of the Convention, the Court held that Ukraine was to pay to the first five applicants jointly 32,000 euros (EUR) in respect of non-pecuniary damage, and – given that one of the applicants, Arkadiy Gavrylyuk, had died while the case was pending before the Court - the remaining applicants jointly EUR 33,000 in respect of non-pecuniary damage.

- **Freedom of thought, conscience and religion**

Siebenhaar v. Germany (no. 18136/02) (Importance 2) – 3 February 2011 – No violation of Article 9 – Justified dismissal of the applicant, employed by a Protestant Church, for active commitment to another religious community

The applicant is a Catholic and was employed from May 1997 as a childcare assistant in a day nursery run by a Protestant parish in Pforzheim and later in the management of a kindergarten run by another Protestant parish in that city. Her employment contract stated that the labour law provisions for staff of the Protestant Church were applicable, which provided in particular that employees were obliged to be loyal to the Church and that they were not allowed to be members of and work for organisations whose views or activities were in contradiction to the Church's mandate. Having been informed by an anonymous source of the fact that the applicant was a member of a religious

community named the Universal Church/Brotherhood of Humanity and that she offered primary lessons in the teachings of that community, the Church subsequently informed the applicant of her dismissal without notice. The applicant brought proceedings against her dismissal before the Pforzheim Labour Court, which rejected her claim, arguing that she had violated her obligations of loyalty towards the Protestant Church. In subsequent proceedings, the courts took the view that Church employers had the right to govern their affairs in an autonomous manner, while at the same time labour courts were bound by the principles of the Church employers' religious and moral precepts only to the extent that they did not conflict with the fundamental principles of the legal order of the State.

The applicant complained of her dismissal.

The Protestant Church of Baden and the Protestant Church of Germany were given leave to intervene as third parties in the proceedings and submitted written observations. The Court had to examine whether the balance struck by the German labour courts, between the applicant's right to freedom of religion under Article 9 on the one hand and the Convention rights of the Protestant Church on the other had given her sufficient protection against her dismissal. The Court reiterated that the autonomy of religious communities was protected against undue interference by the State under Article 9 read in the light of Article 11. By putting in place a system of labour courts and a constitutional court having jurisdiction to review the former courts' decisions, Germany had in principle complied with its positive obligations towards litigants in the area of employment law. The applicant had been able to bring her case before a labour court with jurisdiction to determine whether her dismissal had been lawful under State labour law while having regard to ecclesiastical labour law. The Federal Labour Court had found that, given her active commitment to the Universal Church, she could no longer be counted on to respect her employer's ideals. The German labour courts had taken account of all the relevant factors and undertaken a careful and thorough balancing exercise regarding the interests involved. According to the courts' findings, the applicant's dismissal had been necessary to preserve the Church's credibility, which outweighed her interest in keeping her job. The courts had also taken into consideration the relatively short duration of her employment. The fact that, after that thorough balancing exercise, they had given more weight to the interests of the Protestant Church than to those of the applicant did not itself raise an issue under the Convention. The Court found the German labour courts' findings reasonable. The applicant had been, or should have been, aware from the moment of signing her employment contract that her activities for the Universal Church were incompatible with her work for the Protestant Church. In view of these considerations, the Court concluded that there had been no violation of Article 9.

- **Freedom of expression**

Faruk Temel v. Turkey (no. 16853/05) (Importance 3) – 1 February 2011 – Violation of Article 10 – The applicant convicted for his statement – Violation of Article 6 §§ 1 and 3 (c) – Lack of assistance of a lawyer during the investigation stage

While the applicant was president of the provincial youth section of HADEP (People's Democracy Party, a legal political party) he read out a press statement at a party conference in 2003 in which he allegedly protested against the United States intervention in Iraq and Abdullah Öcalan's solitary confinement.

He complained of his conviction on account of that statement. He alleged in particular that in the proceedings against him he had been denied the assistance of a lawyer during the investigation stage.

The Court noted that at the time of the events, the applicant was the president of a political party and that he had been convicted to 10 months of imprisonment for propaganda for terrorist methods after reading a statement to about a hundred and fifty persons. The Court noted that the applicant was a political figure and that he had expressed his party's point of view on a matter of public interest, namely an international problem concerning the United States' intervention in Iraq. The Court further noted that the national courts limited their interpretation to a part of the applicant's statement, and not the whole declaration. Further, the Court noted that the applicant's declaration did not incite to violence and did not constitute a hatred speech. Therefore, the applicant's conviction was not "necessary in a democratic society", and was therefore in violation of Article 10. Under Article 41 (just satisfaction) of the Convention, the Court held that Turkey was to pay the applicant 3,000 EUR for non-pecuniary damage and 250 EUR for costs and expenses.

- **Prohibition of discrimination**

Sporer v. Austria (no. 35637/03) (Importance 2) – 3 February 2011 – No violation of Article 6 § 1 – The applicant had the benefit of adversarial proceedings which provided him with an opportunity to put forward all his arguments – Violation of Article 14 taken together with Article 8 – Difference in treatment as regards the attribution of custody to the applicant, the father of a child born out of wedlock, in comparison with the mother, or married or divorced fathers

The applicant's son, K., was born out of wedlock in May 2000, at a time when the child's mother was living in the same building as the applicant in a separate apartment. During K.'s first year, the applicant and K.'s mother took turns taking care of the child and taking parental leave. After K.'s mother had moved out of the house in January 2002, the applicant asked the district court to transfer sole custody to him, arguing that K.'s mother was not capable of taking care of the child. She opposed the transfer of custody and the youth office expressed the view that both parents were capable of exercising custody. In a hearing before the district court, it was agreed that, pending a decision, K. would spend half of the time with each parent. Three experts intervened, with the conclusion that the child's interest would not be endangered if custody remained with the mother. The applicant did not make use of his opportunity to submit written comments but requested that the expert opinion be discussed at a hearing. In December 2002, without holding a further hearing, the court dismissed the applicant's request for sole custody to be transferred to him, noting that under the Austrian Civil Code the mother of a child born out of wedlock had sole custody unless the child's best interest was at risk. The Supreme Court dismissed the applicant's appeal. K.'s mother continues to have sole custody while the applicant has a right of access as recommended by the courts.

The applicant complained that in the custody proceedings the district court had failed to hear him in person to discuss the decisive expert opinion. He further alleged that he had been discriminated against as the father of a child born out of wedlock.

Article 6 § 1

The Court noted that the applicant had been entitled to a hearing, as there had been no exceptional circumstances, which would have justified dispensing with it. In custody proceedings, the personal impression of the parents was an important element. The Court observed that two hearings had been held before the district court. The hearings had allowed that court to gain a personal impression of both parties and had provided an opportunity to discuss various aspects of the case. There was no indication that the applicant would not have been able to make further submissions had he wished to do so. Indeed, the decisive expert opinion had been prepared in an adversarial manner, based on interviews with and written submissions by both parties. In view of these considerations, the Court concluded that there had been no violation of Article 6 § 1.

Article 14 taken together with Article 8

The Court first underlined that, as was undisputed between the parties, the applicant's relationship with his son had constituted "family life" for the purpose of Article 8. In the custody proceedings brought by the applicant, the only question before the Austrian courts had been whether K.'s mother endangered his well-being. On the basis of the decisive expert opinion they had dismissed the applicant's request for the transfer of sole custody. There had thus been a difference in treatment as regards the attribution of custody to the applicant in his capacity as the father of a child born out of wedlock in comparison with the mother or in comparison with married fathers. The Court saw no reason to come to a different conclusion than in the very similar case of *Zaunegger v. Germany*, in which it had found that, in the absence of an agreement on joint custody, that attribution was justified in order to ensure that there was a person who would act for the child from birth in a legally binding way. However, in the case of *Zaunegger*, the Court had not shared the assumption that joint custody against the will of the mother was prima facie against the child's interests. While there was no European consensus as to whether fathers of children born out of wedlock had a right to request joint custody even without the consent of the mother, in a majority of member States decisions regarding the attribution of custody had to be based on the child's best interests and, in the event of a conflict between the parents, such attribution was to be subject to scrutiny by the national courts. In the applicant's case, Austrian law neither allowed for judicial review of whether joint custody would be in the interest of the child or, in the event that joint custody was against that interest, of whether it was better served by awarding sole custody to the mother or to the father. The Government had not submitted sufficient reasons to justify why the situation of the applicant should allow for less judicial scrutiny than that of fathers who had originally held parental authority and later separated or divorced from the mother. There had accordingly been a violation of Article 14 taken in conjunction with Article 8. Under Article 41 (just satisfaction), the Court held that Austria was to pay the applicant 3,500 euros (EUR) in respect of costs and expenses. It further held that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by him.

- ## Freedom of movement

Soltysyak v. Russia (no. 4663/05) (Importance 2) – 10 February 2011 – Violation of Article 2 of Protocol No 4 – The ban imposed on the applicant, a retired military officer, to travel abroad after his retirement had not been proportionate to the aim of protecting national security and had not been "necessary in a democratic society"

The applicant lived at the Baikonur space launch site in Kazakhstan (under joint Kazakh-Russian jurisdiction) where he served as a military officer from 1983 to 2004. During his career he was granted access to information classified as top secret. Following his retirement from the Russian army in May 2004, he applied for a passport with which he could leave Kazakhstan to travel abroad. In May 2005, the passports and visa service refused to issue him a passport as they considered that he had last been exposed to state secrets via his work and, according to the terms of his employment contract, had accepted the possibility of a five-year restriction on his right to travel. He could therefore only travel abroad from December 2008. The domestic courts rejected the applicant's ensuing complaint, finding that the refusal to issue him with a passport was lawful in view of his knowledge of state secrets, and that he had received a pay raise on that account. The applicant's maintained that a valid travel document was essential to him for visiting his family living abroad.

The applicant complained that, following the termination of his employment, he could not return to Russia from the Baikonur launch site in Kazakhstan or visit his ailing father or his mother's grave in Ukraine or go to any other visa-free CIS country, owing to the absence of a travel document.

The Court noted that, although the applicant could cross the Russian-Ukrainian or Russian-Kazakh border with his internal identity document, he needed a passport to travel to virtually any other country in the world. There had therefore been an interference with his right to freedom of movement. That interference had had a legal basis, under the Entry and Leave Procedures Act, State Secrets Act as and had served the legitimate aim of protecting the interests of national security. However, as in a similar case already brought before it (see *Bartik v. Russia*), the Court found that the Russian Government had not shown how the blanket restriction on the applicant's ability to travel abroad had served the interests of national security. Indeed, despite the Russian Government's commitment to abolish restrictions on international travel for private purposes by those who had previously been aware of state secrets as a condition for its membership of the Council of Europe, an overview of the situation in the 47 Council of Europe member States demonstrated that Russia was the only member State to retain such a restriction. In any case, Article 2 of Protocol No. 4, without distinguishing between civilians and members of the armed services, guaranteed to everyone the freedom to leave one's own country. The Court therefore considered that the ban on the applicant travelling abroad from May 2004 (when he retired) to December 2008 had not been proportionate to the aim of protecting national security and had not therefore been "necessary in a democratic society". As concerned the period after December 2008, when the five-year restriction had been set to expire, the Court found that any restriction on the applicant's right to travel had had no basis in law or in contract. There had therefore been a violation of Article 2 of Protocol No. 4.

The Court held that Russia was to pay the applicant 3,000 euros (EUR) in respect of non pecuniary damage and EUR 850 for costs and expenses.

- ## Disappearance cases in Chechnya

Dudarovy v. Russia (no. 5382/07) (Importance 3) – 10 February 2011 – Two violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' son, Magomed Dudarov – (ii) Lack of an effective investigation – Violation of Article 3 – The applicants' mental suffering – Violation of Article 5 – Unacknowledged detention of the applicants' son – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Nasukhanovy v. Russia (no.1572/07) (Importance 3) – 10 February 2011 – Two violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' close relatives, Movsar and Movladi Nasukhanov – (ii) Lack of an effective investigation – Violation of Article 5 – Unacknowledged detention of the applicants' close relatives – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Other judgments issued in the period under observation

You will find in the column "Key Words" of the table below a short description of the topics dealt with in the judgment[*]. For more detailed information, please refer to the following links:

- Press release by the Registrar concerning the Chamber judgments issued on 01 Feb. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 03 Feb. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 08 Feb. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 10 Feb. 2011: here

We kindly invite you to click on the corresponding link to access to the full judgment of the Court for more details. Some judgments are only available in French.

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Azerbaijan	03 Feb. 2011	Pirali Orujov (no. 8460/07) Imp. 3	Violation of Art. 6 § 1 (fairness)	Failure to inform the applicant of the hearing of his cassation appeal	Link
Bulgaria	10 Feb. 2011	Andreev (no. 11578/04) Imp. 3	Violation of Art. 6 § 1	Lack of access to a court on account of domestic court's failure to examine the merits of the applicant's claim on appeal during compensation proceedings concerning a plot of land	Link
Bulgaria	10 Feb. 2011	Dimitrov-Kazakov (no. 11379/03) Imp. 3	Violation of Art. 8 Violation of Art. 13	The applicant's inclusion in a police file as an "offender", causing the applicant to be subjected to numerous checks related to rape complaints Lack of an effective remedy	Link
Bulgaria	10 Feb. 2011	Genchevi (no. 33114/03) Imp. 3	Violation of Art. 2	Lack of an effective criminal investigation into the murder of the applicants' husband/father	Link
Bulgaria	10 Feb. 2011	Iliev and Others (nos. 4473/02 and 34138/04) Imp. 3	(Mr Iliev) Violation of Art. 3 (Mr Iliev) No violation of Art. 13 (Mr Iliev) Violation of Art. 13 (All applicants) Violation of Art. 8 (All applicants) No violation of Art. 13	Poor conditions of detention in Varna Prison The claim that the first applicant brought in respect of Sofia prison represented an effective remedy for the conditions in which he had been detained there and provided him adequate redress Lack of adequate redress concerning the applicant's conditions of detention in Varna Prison **Monitoring of the first applicant's correspondence with his lawyers, a systemic problem in Bulgaria** The monitoring of the applicants' correspondence had not resulted from one individual decision taken by the authorities but directly from the application of the relevant legislation (See the CPT Report to the Bulgarian Government on the visit to Bulgaria carried out by the CPT from 10 to 21 September 2006)	Link
Bulgaria	10 Feb. 2011	Nalbantski (no. 30943/04) Imp. 2	Violation of Art. 6 § 1 (length) Violation of Art. 13	Excessive length of criminal proceedings (near eleven and a half years) Lack of an effective remedy	Link

[*] The "Key Words" in the various tables of the RSIF are elaborated under the sole responsibility of the NHRS Unit of the DG-HL

			Violation of Art. 2 of Prot. 4	The mere fact that an individual has been criminally convicted and has not yet been rehabilitated cannot justify the imposition of restrictions on his or her freedom to leave his or her country, concerning the travel bans imposed on the applicant	
Bulgaria	10 Feb. 2011	Radkov (No. 2) (no. 18382/05) Imp. 2	Violation of Art. 3 Violation of Art. 13	Poor conditions of detention in Lovech prison Lack of an effective remedy (See the CPT Report to the Bulgarian Government on the visit to Bulgaria carried out by the CPT from 10 to 21 September 2006)	Link
Germany	10 Feb. 2011	Tsikakis (no. 1521/06) Imp. 2	Violation of Art. 8 Violation of Art. 6 § 1 (length)	Domestic authorities' failure to take adequate measures to protect the applicant's right to respect for family life, concerning his access rights to his child Excessive length of proceedings (near six years and five months)	Link
Greece	10 Feb. 2011	Korosidou (no. 9957/08) Imp. 3	Violation of Art. 6 § 1 Violation of Art. 13 No violation of Art. 14 in conjunction with Art. 8 and Art. 1 of Prot. 1	Excessive length of proceedings (more than ten years and one month) Lack of an effective remedy Domestic courts' justified refusal to award the applicant a survivor's pension as a widow on the ground that she had not been married to her deceased partner	Link
Greece	10 Feb. 2011	Nisiotis (no. 34704/08) Imp. 3	Violation of Art. 3	Poor conditions of his detention in Ioannina prison (See the 2nd General Report on the CPT's Activities (1991), the 7th General Report on the CPT's Activities (1996), and the 11th General Report on the CPT's Activities (2000))	Link
Greece	10 Feb. 2011	Thaleia Karydi AXTE (no. 44769/07) Imp. 2	Just satisfaction	Just satisfaction in respect of the judgment of 10 May 2010	Link
Hungary	01 Feb. 2011	Metalco BT. (no. 34976/05) Imp. 2	Violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1 (fairness)	Unlawful interference with the applicant's right to protection of property on account of the continued seizure of the applicant's asset by the Tax Authority The respondent Tax Authority's unlawful omission to hold an auction prevented the applicant from ascertaining and proving the value of the attached share	Link
Hungary	01 Feb. 2011	Potapenko (no. 32318/05) Imp. 3	Violation of Art. 6 § 1 (length) Violation of Art. 2 § 2 of Prot. 4	Excessive length of criminal proceedings (over eight years and seven months) Disproportionate travel ban imposed on the applicant, amounting to an almost automatic, blanket measure of indefinite duration	Link
Italy	08 Feb. 2011	Plalam S.P.A. (no. 16021/02) Imp. 2	Just satisfaction	Just satisfaction in respect of the judgment of 18 August 2010	Link
Moldova	08 Feb. 2011	Ignatenco (no. 36988/07) Imp. 3	No violation of Art. 5 § 1 Violation of Art. 5 § 3	The applicant was only affected by the delay in his release from detention for 30 minutes Lack of "relevant and sufficient" reasons for the applicant's detention on remand	Link

Poland	01 Feb. 2011	Choumakov (No. 2) (no. 55777/08) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention (over five years and four months) Excessive length of criminal proceedings (over seven years)	Link
Poland	01 Feb. 2011	Knyter (no. 31820/06) Imp. 3 Lesiak (no. 19218/07) Imp. 3	(1st case) Violation of Art. 5 § 3 (2nd case) No violation of Art. 5 § 3 (1st case) Violation of Art. 8 (2nd case) Violation of Art. 8	Excessive length of remand detention (more than three years) The domestic authorities handled the applicant's case with relative expedition Unlawful restrictions on the applicant's family visits Monitoring of the applicant's correspondence with the Court	Link Link
Poland	01 Feb. 2011	Sambor (no. 15579/05) Imp. 3	No violation of Art. 3	The investigation of the applicant's allegations of ill-treatment was thorough and effective and the domestic authorities managed to examine and clarify all relevant circumstances of the present case	Link
Poland	08 Feb. 2011	Finster (no. 24860/08) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 2 (presumption of innocence)	Excessive length of detention (more than two years) Infringement of the applicant's right to be presumed innocent on account of the grounds for the Gdańsk Court of Appeal's decision of 19 March 2008 on the prolongation of the applicant's detention, stating that the evidence against the defendants, including the applicant, indicated that they had committed the offences with which they had been charged	Link
Romania	08 Feb. 2011	Butuşină (no. 30818/04) Imp. 3	Violation of Art. 6 § 1 (fairness) No violation of Art. 6 § 1 (length)	Quashing of a final judgment in the applicant's favour Reasonable length of criminal proceedings	Link
Romania	08 Feb. 2011	Micu (no. 29883/06) Imp. 3	Violation of Art. 3	Poor conditions of detention in Bucarest-Jilava and Bucarest-Rahova prisons (See the CPT Report to the Romanian Government on the visit to Romania carried out by the CPT from 8 to 19 June 2006)	Link
Russia	03 Feb. 2011	Geppa (no. 8532/06) Imp. 2	No violation of Art. 2 No violation of Art. 3	The authorities have complied with their obligation to conduct an effective investigation into the applicant's son's death while in prison	Link
Russia	03 Feb. 2011	Igor Kabanov (no. 8921/05) Imp. 2	Violation of Art. 6 § 1 (fairness) Violation of Art. 10	Impartiality of the Regional Court in proceedings terminating the applicant's Bar Association membership Disproportionate sanction imposed on the applicant, concerning his disbarment for expressing an opinion about a judge	Link
Russia	03 Feb. 2011	Igor Vasilchenko (no. 6571/04) Imp. 3	Violation of Art. 6 § 1 No violation of Art. 6 § 1 Violation of Art. 6 § 1	Delayed enforcement of a final judgment discharging the applicant from military service The notion of legal certainty implied by the right to a court under Article 6 § 1 had been sufficiently respected when the final judgment of 9 December 2004 was quashed Failure to notify the applicant of the	Link

			Violation of Art. 8	appeal hearing Deprivation of property (the applicant's home) without adequate procedural safeguards	
Russia	03 Feb. 2011	Kharin (no. 37345/03) Imp. 2	No violation of Art. 5 § 1	The Court considered that by releasing the applicant immediately after he had sobered up and gone through the administrative formalities the authorities struck a fair balance between the need to safeguard public order and interest of other individuals and the applicant's right to liberty	Link
Russia	10 Feb. 2011	Dorogyaykin (no. 1066/05) Imp. 3	Violation of Art. 3	Poor conditions of detention in Barnaul remand prison IZ-22/1	Link
Russia	10 Feb. 2011	Pelevin (no. 38726/05) Imp. 3	Violation of Art. 5 §§ 1, 3 and 4	Unlawfulness and excessive length of remand detention (three years); the appeal court's failure to review speedily the applicant's appeals against the extension orders	Link
Slovakia	08 Feb. 2011	Aydemir (no. 44153/06) Imp. 3 Michalák (no. 30157/03) Imp. 2	(Mr Aydemir and Mr Michalák) Violation of Art. 5 § 4 (Mr Michalák) Violations of Art. 5 § 4 (Both applicants) Violation of Art. 5 § 5 (Mr Michalák) Violation of Art. 13 in conjunction with Art. 8	Hindrance to the applicants' right to benefit from a procedure by which the lawfulness of his remand in detention could be decided Lack of a speedy determination of the lawfulness of the applicant's remand in custody and of his detention in the proceedings concerning the second request for extension of detention, taken together with the third request for release Lack of an enforceable right to compensation for that breach of the applicants' rights Monitoring of the applicant's telephone calls during the criminal investigation against him and lack of effective remedy	Link Link
the Czech Republic	03 Feb. 2011	Hubka (no. 500/06) Imp. 3 Palšovič (no. 39278/04) Imp. 3	Violation of Art. 6 § 1 (fairness)	Constitutional Court's dismissal of the applicants' applications concerning their military retirement pensions; Constitutional Court's failure to provide the applicants with a copy of the written observations of the Ministry of Defence	Link Link
the Czech Republic	10 Feb. 2011	3A.CZ s.r.o. (no. 21835/06) Imp. 2	Violation of Art. 6 § 1	Failure to provide the applicant with a copy of the written observations of the Ministry of Defence	Link
the Czech Republic	10 Feb. 2011	Kysilková and Kysilka (no. 17273/03) Imp. 3	No violation of Art. 6 § 1 Violation of Art. 6 § 1	The proceedings before the Constitutional Court, limited to the examination of questions of constitutionality, did not involve a direct and full determination of the applicants' civil rights in the administrative proceedings Failure to provide the applicants with a copy of the written observations of the Ministry of Defence	Link
the Czech Republic	10 Feb. 2011	Minarik (no. 46677/06) Imp. 3	Violation of Art. 6 § 1	Unfairness of proceedings concerning the illegal deprivation of the applicant's ownership of shares	Link
Turkey	01 Feb. 2011	Açış (no. 7050/05) Imp. 3	Violation of Art. 3 Violation of Art. 6 § 1	The information provided by the authorities concerning the applicants' relative's disappearance had been contradictory and defamatory, causing them anguish and suffering Lack of access to the High Administrative Military Court of	Link

			No violation of Art. 14	Ankara Lack of sufficient evidence to establish the court's arbitrariness during proceedings	
Turkey	01 Feb. 2011	Desde (no. 23909/03) Imp. 3	No violation of Art. 3 (substantive) Violation of Art. 3 (procedural) Violation of Art. 6 §§ 1 and 3 (c)	Lack of sufficient evidence to establish the applicant's alleged ill-treatment in police custody Lack of an effective investigation in respect of the alleged ill-treatment Lack of legal assistance while in police custody	Link
Turkey	01 Feb. 2011	Gereksar and Others (nos. 34764/05, 34786/05, 34800/05 and 34811/05) Imp. 2	Violations of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Excessive length (more than seven years and six months) and unfairness of proceedings Interference with the applicants' right to protection of property on account of the lack of adequate legal safeguards during the proceedings	Link
Turkey	01 Feb. 2011	Hüseyin Habip Taşkın (no. 5289/06) Imp. 2	Violation of Art. 6 § 3 (c) in conjunction with Art. 6 § 1 (fairness)	Lack of legal assistance in police custody	Link
Turkey	01 Feb. 2011	Kutlar and Ocaklı (nos. 41433/06, 47936/08) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 5 § 4	Excessive length of pre-trial detention (over eight years and ten months and over seven years and five months respectively and continuing) Lack of an effective remedy to challenge the lawfulness of the detention	Link
Turkey	08 Feb. 2011	Aydoğan and Others (no. 30441/08, 36483/08, etc.) Imp. 3	Violation of Art. 5 §§ 4 and 5	Lack of an effective remedy to challenge; lack of an effective right to compensation	Link
Turkey	08 Feb. 2011	Baskın (no. 9125/04) Imp. 3	Violation of Art. 1 of Prot. 1	Depreciation of compensation awarded to the applicant for the expropriation of her property and insufficient amount of additional compensation, resulting from an error in calculation	Link
Turkey	08 Feb. 2011	Ünsal Öztürk (No. 2) (no. 24874/04) Imp. 3	Violation of Art. 10	Unjustified interference with the applicant's right to freedom of expression on account of, *inter alia*, the national courts' failure to state by which laws the continued confiscation was justified	Link
Ukraine	03 Feb. 2011	Stebnitskiy and Komfort (no. 10687/02) Imp. 2	(Mr Stebnitskiy) Violation of Art. 6 § 1 (The applicant company) Violation of Art. 1 of Prot. 1	Excessive length of criminal proceedings (more than ten years) for tax evasion Unfairness of insolvency proceedings on account of the control of the applicant company's assets by the liquidator (in the present case, the State Tax Administration – the same body which instituted insolvency proceedings against the applicant company)	Link
Ukraine	10 Feb. 2011	Dzhaksybergenov (no. 12343/10) Imp. 2	No violation of Art. 3 No violation of Art. 6 Violation of Art. 2 of Prot. 4	The applicant has failed to substantiate his allegations that his extradition to Kazakhstan would be in violation of Art. 3 The applicant has failed to show that his extradition to Kazakhstan would be in violation of Art. 6; therefore the applicant's extradition, if executed, would not violate Art. 6 Unlawfulness of the decision restricting the applicant's right to	Link

				leave Ukraine	
Ukraine	10 Feb. 2011	Kharchenko (no. 40107/02) Imp. 3	Violation of Art. 3 Violations of Art. 5 § 1 Violation of Art. 5 §§ 3 and 4	Conditions of detention in Kyiv SIZO no. 13 Unlawfulness of two periods of detention Excessive length of detention (two years and four months) and lack of an effective remedy to challenge the lawfulness of the detention	Link
Ukraine	10 Feb. 2011	Pleshkov (no. 37789/05) Imp. 2	Violation of Art. 5 §§ 3 and 4 Violation of Art. 6 § 1 (length)	Excessive length of detention (more than two years and two months) and lack of an effective remedy to challenge the lawfulness of the detention Excessive length of proceedings (four years and almost five months)	Link
Ukraine	10 Feb. 2011	Seryavin and Others (no. 4909/04) Imp. 3	Violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1 (fairness)	Unlawful conclusion of a investment contract concerning the applicants' property and unlawful deprivation of the applicants' share in the attic, transferred to investors	Link

3. Repetitive cases

The judgments listed below are based on a classification which figures in the Registry's press release: "*In which the Court has reached the same findings as in similar cases raising the same issues under the Convention*".

The role of the NHRSs may be of particular importance in this respect: they could check whether the circumstances which led to the said repetitive cases have changed or whether the necessary execution measures have been adopted.

State	**Date**	**Case Title**	**Conclusion**	**Key words**
Azerbaijan	03 Feb. 2011	Akhundov (no. 39941/07) link	Violation of Art. 6 § 1 (fairness) Violation of Art.1 of Prot. 1	Failure to enforce a final judgment in the applicant's favour concerning unlawful dismissal and salary arrears
Bulgaria	03 Feb. 2011	Manova and Others (no. 32626/06) link	(1st applicant) Violation of Art.1 of Prot. 1	Deprivation of property, without adequate compensation, following the application of restitution legislation in Bulgaria
Italy	01 Feb. 2011	Genovese and Others (no. 9119/03) link Giacobbe and Others (no. 16041/02) link Quattrone (no. 67785/01) link	Just satisfaction	Just satisfaction due to the judgments of respectively, 3 July 2006, 15 Mars 2006 and 11 April 2007
Poland	08 Feb. 2011	Trojanowski (no. 27952/08) link	Violation of Art.5 § 3	Excessive length of pre-trial detention (three years and almost one month) on suspicion of drug trafficking, committed as a member of an organised criminal gang
Turkey	01 Feb. 2011	Mehmet Yıldız and Others v. (no. 14155/02) link	Violation of Art.1 of Prot. 1	Expropriation compensation awarded to the applicants had lost its value because the statutory default interest rate was inadequate
Turkey	08 Feb. 2011	Alphan (no. 770/04) link	Violation of Art.6 § 1 (length) Violation of Art.1 of Prot. 1	Excessive length of civil proceedings (seven years and seven months) Domestic courts' refusal courts to apply interest to the compensation awarded to the applicant

4. Length of proceedings cases

The judgments listed below are based on a classification which figures in the Registry's press release.

The role of the NHRSs may be of particular relevance in that respect as well, as these judgments often reveal systemic defects, which the NHRSs may be able to fix with the competent national authorities.

With respect to the length of non criminal proceedings cases, the reasonableness of the length of proceedings is assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (See for instance Cocchiarella v. Italy [GC], no. 64886/01, § 68, published in ECHR 2006, and Frydlender v. France [GC], no. 30979/96, § 43, ECHR 2000-VII).

State	**Date**	**Case Title**	**Link to the judgment**
Bulgaria	10 Feb. 2011	Gospodinova (no. 38646/04)	Link
Greece	03 Feb. 2011	Chaïkalis (no. 32362/08)	Link
Greece	03 Feb. 2011	Panagiotis Vassiliadis (no. 7487/08)	Link
Greece	03 Feb. 2011	Stefanakos (no. 33081/08)	Link
Greece	03 Feb. 2011	Argyris and Others (no. 22489/08)	Link
Greece	03 Feb. 2011	Fountis and Others (no. 40049/08)	Link
Greece	03 Feb. 2011	Ftylakis and Others (no. 27153/08)	Link
Greece	03 Feb. 2011	Iliopoulos and Others (no. 40298/08)	Link
Greece	03 Feb. 2011	Kardaras and Others (no. 41714/08)	Link
Greece	03 Feb. 2011	Vrachliotis and Others (no. 40317/08)	Link
Greece	10 Feb. 2011	Vihos (no. 34692/08)	Link
Hungary	08 Feb. 2011	Gyuláné Szabó (no. 34344/07)	Link
Russia	03 Feb. 2011	Meshcheryakov (no. 24564/04)	Link
Slovenia	01 Feb. 2011	Maksimovič (No.2) (no. 31675/05)	Link
Turkey	08 Feb. 2011	Kan (no. 29965/05)	Link
Ukraine	03 Feb. 2011	Kutsenko (No. 2) (no. 2414/06)	Link
Ukraine	10 Feb. 2011	Kiselyova (no. 8944/07)	Link
Ukraine	10 Feb. 2011	Marchenko (no. 24857/07)	Link
Ukraine	10 Feb. 2011	Rudych (no. 48874/06)	Link

B. The decisions on admissibility / inadmissibility / striking out of the list including due to friendly settlements

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 24 January to 6 February 2011**.

They are aimed at providing the NHRSs with potentially useful information on the reasons of the inadmissibility of certain applications addressed to the Court and/or on the friendly settlements reached.

State	***Date***	***Case Title***	***Alleged violations (Key Words)***	***Decision***
Bulgaria	31 Jan. 2011	Todorov (no 38454/04) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 13 (lack of an effective remedy)	Struck out of the list (unilateral declaration of the Government)
Bulgaria	31 Jan. 2011	Dimitrov (no 23342/06) link	Alleged violation of Art. 3 (poor conditions of detention in Pleven Prison)	Struck out of the list (the applicant no longer wished to pursue his application)
Bulgaria	31 Jan. 2011	Kamenova (no 7739/04) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 8 (lack of access to a court in order to restore her reputation due to the non-examination of her civil claim)	Struck out of the list (the applicant no longer wished to pursue her application)
Bulgaria	31 Jan. 2011	Dinchev (no 12109/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings) and Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Bulgaria	31	Ibish (no	Application concerning the fact that	Struck out of the list (absence of

	Jan. 2011	29893/06) link	a private person who had assaulted his late wife had not been effectively prosecuted and punished due to the inactivity of the investigating authorities and the courts	any heir or close relative who has expressed the wish to pursue the application after the applicant's death)
Estonia	31 Jan. 2011	Pavlova (no 21163/10) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (excessive length, unfairness and outcome of tax proceedings; domestic courts' alleged failure to protect the applicant's property rights)	Struck out of the list (friendly settlement reached)
Georgia	28 Jan. 2011	Gabedava (no 65063/09) link	Alleged violation of Articles 2 and 3 (lack of treatment for the applicant's pulmonary multidrug-resistant and fibro-cavernous tuberculosis in prison)	Struck out of the list (the applicant no longer wished to pursue his application)
Italy	01 Feb. 2011	Dritsas and Others (no 2344/02) link	Alleged violation of Art. 3 (ill-treatment by State agents), Art. 5 (alleged unlawful prohibition to move during 4 hours), Articles 9 and 10 (the applicants' inability to participate to the demonstration against G8 summit), Art. 13 (lack of an effective remedy), Art. 1 of Prot. 1 (the applicants had to pay the fees of their transport to Greece), Art. 4 of Prot. 4 (prohibition of collective expulsion of aliens infringed)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 3 and Art. 1 of Prot. 1), partly incompatible *ratione materiae* (concerning claims under Art. 5), partly inadmissible as manifestly ill-founded (the measures taken against the applicants were proportionate to the aim pursued concerning claims under Art. 11, and lack of an arguable claim concerning claims under Art. 13, Art. 14 and Art. 4 of Prot. 4)
Serbia	28 Jan. 2011	Marić (no 24208/08) link	Alleged violation of Art. 6 § 1 (excessive length of the applicant's labour-related civil suit) and Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Serbia	28 Jan. 2011	Mikloševič (no 18160/06) link	Alleged violation of Art. 6 § 1 (excessive length, unfairness and outcome of criminal proceedings)	Partly struck out of the list (unilateral declaration of Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the alleged unfairness of proceedings), partly incompatible *ratione materiae* (concerning the remainder of the application)
Serbia	28 Jan. 2011	Trifković (no 26432/07) link	Alleged violation of Art. 6 § 1 (excessive length of two sets of civil proceedings)	Struck out of the list (friendly settlement reached)
Serbia	28 Jan. 2011	Mutavdžić (no 24193/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
the Czech Republic	01 Feb. 2011	Hykel (no 15400/04) link	Alleged violation of Art. 1 of Prot. 1 in conjunction with Art. 14 (*de facto* expropriation of the applicant's property), Art. 6 § 1 (unfairness of proceedings)	Partly incompatible *ratione materiae* (concerning claims under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
the Czech Republic	01 Feb. 2011	Rajnoch (no 217/07) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 8 (the applicant's inability to use his apartment) and Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the unfairness of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 8), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
the Czech Republic	01 Feb. 2011	Agro-B SPOL. S R.O. (no 740/05) link	Alleged violation of Art. 1 of Prot 1 (the fiscal authorities had allegedly imposed the real estate transfer tax on the applicant company although	Partly inadmissible as manifestly ill-founded (the imposed tax was proportionate especially in view of the wide margin of appreciation of

			the Taxation Act had not provided for this), Art. 6 § 1 (unfairness of proceedings) Art. 13 (lack of an effective remedy)	States in devising their taxation scheme concerning claims under Art. 1 of Prot. 1 and lack of an arguable claim under Art. 13), partly incompatible *ratione materiae* (concerning claims under Art. 6)
“the Former Yugoslav Republic of Macedonia”	31 Jan. 2011	Dear and Džemovski (no 6062/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Art. 14	Partly struck out of the list (unilateral declaration of Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
“the Former Yugoslav Republic of Macedonia”	31 Jan. 2011	Fidanovski and Goševski (no 23789/07) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy) and Art. 13 and Art. 1 of Prot. 1	Idem.
“the Former Yugoslav Republic of Macedonia”	31 Jan. 2011	Stefanoski and Others (no 28635/05) link	Alleged violation of Art. 6 § 1 (excessive length, unfairness and outcome of proceedings), Art. 1 of Prot. 1	Idem.
“the Former Yugoslav Republic of Macedonia”	31 Jan. 2011	Vretovski and Others (no 44562/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings, almost ten years)	Struck out of the list (friendly settlement reached)
“the Former Yugoslav Republic of Macedonia”	31 Jan. 2011	Tomislav Jovanovski (no 25660/06) link	Alleged violation of Art. 6 § 1 (excessive length and outcome of proceedings)	Partly struck out of the list (unilateral declaration of Government concerning the length of civil proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
the United Kingdom	01 Feb. 2011	Horie (no 31845/10) link	Alleged violation of Art. 8 (the decision to grant the injunction preventing the applicant and other travellers from entering or occupying specific woodlands allegedly impacted on the applicant’s ability to pursue her way of life as a New Traveller)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Portugal and the United Kingdom	01 Feb. 2011	Mann (no 360/10) link	In particular alleged violation of Art 5, 6 and 13 (decision of the Portuguese authorities to deport the applicant to the United Kingdom instead of enforcing the custodial sentence and the subsequent delay in issuing the European Arrest Warrant; unfairness of proceedings), Articles 5 and 6 (alleged unlawful extradition of the applicant by British authorities)	Partly inadmissible for non-respect of the six-month requirement (concerning claims against Portugal under Art. 6 §§ 1 and 3, and Art. 13), partly inadmissible as manifestly ill-founded (concerning claims against Portugal under Art. 5 and the remainder of the application against the United Kingdom)
Turkey	28 Jan. 2011	Gorel (no 23064/04) link	Alleged violation of Art. 3 (alleged ill-treatment) and Art. 6 (unfairness of proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	01 Feb. 2011	Okmen (no 15383/05) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings, eight years and seven months) and Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (lack of sufficient evidence to establish the domestic courts’ lack of diligence during the proceedings concerning claims under Art. 6 and lack of an arguable claim concerning claims under Art. 13)
Turkey	01 Feb. 2011	Tekin (no 26252/06) link	Alleged violation of Articles 8, 12, 14, 17 and 53 and Art. 5 of Prot. 7 (domestic authorities’ to grant the applicant social benefits after her	Partly adjourned (concerning the length of administrative proceedings), partly inadmissible as manifestly ill-founded (no

			partner's death), Art. 6 § 1 (excessive length of administrative proceedings)	violation of the rights and freedoms protected by the Convention concerning the remainder of the application; see *Şerife Yiğit v. Turkey*)
Ukraine	01 Feb. 2011	Lysaya (no 11408/02) link	Alleged violation of Articles 2 and 3 (domestic authorities' failure to ensure the physical integrity of the applicant's husband; lack of an effective investigation concerning her husband's torture and ill-treatment in police custody by police officers; lack of medical assistance in respect of his injuries), Art. 6 § 1 (unfairness of proceedings) and Art. 13 (lack of an effective remedy)	Partly incompatible *ratione personae* and *ratione materiae* (concerning claims under Art. 6), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Ukraine	01 Feb. 2011	Kobernik (no 45947/06) link	Alleged violation of Art. 3 (alleged ill-treatment by police officers for the purpose of extracting a confession, lack of medical care in detention, poor conditions of detention in the Lugansk SIZO, poor conditions of his transportation between detention facilities), Art. 5 § 1 (unlawful detention), Art. 5 § 3 (excessive length of detention), Art. 6 § 1 (excessive length and unfairness of proceedings), Art. 6 § 3 b, c, d) (lack of sufficient time to examine the case file before the cassation proceedings, the applicant's lawyers failed to provide him with effective legal representation, certain witnesses were not questioned during the trial)	Partly adjourned (concerning conditions of detention in Lugansk SIZO and conditions of transportation in June and July 2007, the length of the pre-trial detention and excessive length of criminal proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)

C. The communicated cases

The European Court of Human Rights publishes on a weekly basis a list of the communicated cases on its Website. These are cases concerning individual applications which are pending before the Court. They are communicated by the Court to the respondent State's Government with a statement of facts, the applicant's complaints and the questions put by the Court to the Government concerned. The decision to communicate a case lies with one of the Court's Chamber which is in charge of the case.

There is in general a gap of three weeks between the date of the communication and the date of the publication of the batch on the Website. Below you will find the links to the lists of the weekly communicated cases which were published on the Court's Website:

- on 07 February 2011: link
- on 14 February 2011: link

The list itself contains links to the statement of facts and the questions to the parties. This is a tool for NHRSs to be aware of issues involving their countries but also of other issues brought before the Court which may reveal structural problems. Below you will find a list of cases of particular interest identified by the NHRS Unit.

NB. The statements of facts and complaints have been prepared by the Registry (solely in one of the official languages) on the basis of the applicant's submissions. The Court cannot be held responsible for the veracity of the information contained therein.

Please note that the Irish Human Rights Commission (IHRC) issues a monthly table on priority cases before the European Court of Human Rights with a focus on asylum/ immigration, data protection, anti-terrorism/ rule of law and disability cases for the attention of the European Group of NHRIs with a view to suggesting possible amicus curiae cases to the members of the Group. Des Hogan from the IHRC can provide you with these tables (dhogan@ihrc.ie).

Communicated cases published on 07 February 2011 on the Court's Website and selected by the NHRS Unit

The batch of 07 February 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, France, Georgia, Portugal, Russia, Switzerland, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
Russia	19 Jan. 2011	Nikitin no 12796/07	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment in the hands of the police agents – (ii) Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	18 Jan. 2011	Novaya Gazeta and Borodyanskiy no 14087/08	Alleged violation of Art. 10 – Alleged interference with the applicants' right to freedom of expression on account of the defamation proceedings instituted before the domestic courts for publishing an article concerning alleged irregularities in distributing preferential rate loans suggesting that the Governor of the Omsk Region, had been involved in those
the United Kingdom	21 Jan. 2011	Animal Defenders International no 48876/08	Alleged violation of Art. 10 – Has there been an interference with the applicant association's right to freedom of expression, based on sections 319 and 312 of the Communications Act 2003, "necessary in a democratic society" within the meaning of this Article, concerning the applicant organisation's prohibition on an advertisement campaigning against the use of animals in commerce, science and leisure
the United Kingdom	21 Jan. 2011	D.B.N. no 26550/10	Alleged violation of Articles 2 and 3 – Risk of being killed or subjected to ill-treatment if expelled to Zimbabwe – Alleged violation of Art. 8 – The applicant's removal to Zimbabwe would completely destroy her right to private life and physical and moral integrity as it protects gender identification, sexual orientation and sexual life, on account of the applicant's sexual orientation
Turkey	20 Jan. 2011	Altinkaynak and Others no 12541/06	Alleged violation of Art. 11 – Domestic authorities' refusal to register religious association – Alleged violation of Art. 14 – Discrimination on grounds of religion
Disappearance cases in Chechnya			
Russia	19 Jan. 2011	Ganatova no 44776/09	Alleged violatios of Art. 2 (substantive and procedural) – (i) Has the right to life, as guaranteed by Art. 2 been violated in respect of the applicant's son? – (ii) Has the investigation by the domestic authorities been sufficient to meet their obligation to carry out an effective investigation? – If the applicant's son was apprehended by State agents, was he deprived of liberty within the meaning of Art. 5 § 1? – If such detention took place, was it in compliance with the guarantees of Art. 5 §§ 1-5? – Has the applicant had at her disposal effective domestic remedies in relation to the alleged violation of Art. 2, as required by Article 13 of the Convention?
Russia	19 Jan. 2011	Saayeva and Others no 3375/08	Alleged violations of Art. 2 (substantive and procedural) – (i) Has the right to life, as guaranteed by Art. 2 been violated in respect of the applicants' close relative? – (ii) Has the investigation by the domestic authorities been sufficient to meet their obligation to carry out an effective investigation? – Alleged violation of Art. 3 – Mental suffering in respect of the applicants – Alleged violation of Art. 5 §§ 1-5 – Unacknowledged detention – Alleged violation of Art. 13 – Lack of an effective remedy in respect of the complaints under Articles 2 and 3
Russia	19 Jan. 2011	Shidayev and Shidayeva no 42509/10	Alleged violations of Art. 2 (substantive and procedural) – (i) Has the right to life, as guaranteed by Art. 2 been violated in respect of the applicants' close relative? – (ii) Has the investigation by the domestic authorities been sufficient to meet their obligation to carry out an effective investigation? – Alleged violations of Art. 3 – Alleged ill-treatment in respect of the applicants' close relative by State agents – Mental suffering in respect of the applicants – Alleged violation of Art. 5 §§ 1-5 – Unacknowledged detention – Alleged violation of Art. 13 – Lack of an effective remedy in respect of the complaints under Articles 2, 3 and 5
Russia	18 Jan. 2011	Abubakarova and Midalishova nos 47222/07 and 47223/07	Alleged violations of Art. 2 (substantive and procedural) – (i) Death of the applicants' relatives in a traffic accident involving an armoured personnel carrier – (ii) Lack of an effective investigation

Communicated cases published on 14 February 2011 on the Court's Website and selected by the NHRS Unit

The batch of 14 February 2011 concerns the following States (some cases are however not selected in the table below): Armenia, Austria, Azerbaijan, Croatia, France, Latvia, Liechtenstein, Moldova, Poland, Romania, Russia, Slovakia, Switzerland, Turkey and Ukraine.

State	**Date of Decision to Communicate**	**Case Title**	**Key Words of questions submitted to the parties**
Armenia	27 Jan. 2011	Avetisyan no 29731/08	Alleged violation of Art. 5 § 1 c) – Alleged unlawful arrest and detention – Alleged violation of Art. 5 § 3 – Lack of "relevant and sufficient" reasons for the applicant's detention – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 11 – The applicant's conviction and prosecution was allegedly solely based on him being an opposition activist
France	27 Jan. 2011	I.A.A. no 54605/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Sudan – Alleged violation of Art. 13 – Lack of an effective remedy
Romania	27 Jan. 2011	HANTZ no 33245/08	Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 10 – Interference with the applicant's freedom of expression on account of his dismissal from the University for puting up notice boards in Hungarian – Alleged violation of Art. 10 in conjunction with Art. 14 – Alleged discrimination on grounds of ethnicity and language
Russia	27 Jan. 2011	Mitvol no 51382/07	Alleged violation of Art. 10 – Interference of the applicants' right to freedom of expression on account of the defamation proceedings instituted against them for a statement during a press conference and a published article criticizing the Governor of the Moscow region
Russia	27 Jan. 2011	Church of Scientology of St Petersburg and Others no 47191/06	Alleged violation of Art. 11 – Domestic authorities' refusal to register the applicant group as a legal entity
Turkey	27 Jan. 2011	Halit and Others nos. 50124/07, 53082/07, 53865/07, 399/08, 776/08, 1931/08, 2213/08 and 2953/08	Alleged violation of Art. 10 and Art. 2 of Prot. 1 – The imposition of a disciplinary sanction on University students for having petitioned the university authorities to provide optional Kurdish language courses – Alleged violation of Art. 2 of Prot. 1 – Domestic authorities' failure to provide language education in Kurdish in the form of elective courses as part of the national education system

D. Miscellaneous (Referral to grand chamber, hearings and other activities)

Statement of the President on interim measures (11.02.2011)

Faced with an alarming rise in the number of requests for interim measures and its implications for an already overburdened Court the President of the Court, Jean-Paul Costa, issues a statement reminding both Governments and applicants of the Court's proper but limited role in immigration matters and emphasising their respective responsibilities to co-operate fully with the Court. Press Release, Statement

Hearing of witnesses (04.02.2011)

A delegation of five Judges of the Court took evidence from witnesses in Strasbourg from Monday 31 January to Friday 4 February 2011 in the case of *Georgia v. Russia (no. 1).* Press release

Part II: The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 8 to 10 March 2011 (the 1108 DH meeting of the Ministers' deputies).

B. General and consolidated information

Please note that useful and updated information (including developments occurred between the various Human Rights meetings) on the state of execution of the cases classified by country is provided:

http://www.coe.int/t/e/human%5Frights/execution/03%5FCases/

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights: http://www.coe.int/t/dghl/monitoring/execution/default_en.asp

The simplified global database with all pending cases for execution control (Excel document containing all the basic information on all the cases currently pending before the Committee of Ministers) can be consulted at the following address:

http://www.coe.int/t/dghl/monitoring/execution/Documents/Doc_ref_en.asp

Part III: The work of other Council of Europe monitoring mechanisms

A. European Social Charter (ESC)

Decision on admissibility made public (04.02.2011)

The decision on admissibility in the case *Centre on Housing Rights and Evictions (COHRE) v. France* (no. 63/2010) is now public (read more information).

Two events in Helsinki to highlight the 50th Anniversary of the Social Charter (09.02.2011)

An international seminar on the reform of the ESC, organised by the Ministry for Foreign Affairs of Finland and the Council of Europe, was held on 8 February 2011 in Helsinki, followed by an academic seminar on social human rights in Europe on 9 February. These are two of a series of events which have been organised to mark the 50th Anniversary of the Charter (18 October 2011). (more information)

The European Social Charter and children's rights - seminar in Kjiv (14.02.2011)

In the framework of a joint programme with the European Union, a seminar was held in Kjiv from 14 to 15 February 2011. Its aim was to promote measures to protect the rights of children in conformity with the rights enshrined in the Revised European Social Charter. Programme English / Ukrainian; More information on the joint programme

You may find relevant information on the implementation of the Charter in State Parties using the following country factsheets:

http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable_en.asp

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

Council of Europe anti-torture Committee visits Greece (03.02.2011)

A delegation of the CPT carried out an ad hoc visit to Greece from 20 to 27 January 2011. The visit was carried out to assess the concrete steps taken by the Greek authorities to implement long-standing recommendations, in particular those contained in the reports on the CPT's visits of September 2005, February 2007, September 2008 and September 2009. In the course of the visit, the CPT's delegation examined the treatment and conditions of detention of migrants held in aliens detention centres and in police and border guard stations, particularly in the Attica and Evros regions. The delegation also examined the situation in several prison establishments, including the provision of health care and the regime offered to inmates. In addition, the visit offered the opportunity to review the treatment of detained persons suspected of criminal offences and the safeguards in place for them. In the course of the visit, the delegation met the Special Secretary for Correctional Policy and Forensic Services, Marinos SKANDAMIS, General Director of Penitentiary Policy, Christina PETROU and Brigadier General Vasileios KOUSOUTIS, Director of the Aliens Division of the Hellenic Police, as well as other senior officials from the Greek Police Force and representatives from the Ministries of Citizen's Protection, Foreign Affairs and Justice. **The delegation also met the Deputy Ombudsman for human rights and for children**, representatives of the United Nations High Commissioner for Refugees (UNHCR) and members of several non-governmental organisations, including *Médecins sans Frontières.* The report on the visit will be transmitted to the Greek authorities in March 2011.

Council of Europe anti-torture Committee visits Albania to monitor the treatment of persons detained during recent disturbances in Tirana (04.02.2011)

A delegation of the CPT has completed a three-day ad hoc visit to Albania. The main objective of the visit, which began on 30 January 2011, was to examine the treatment of persons who had been taken into custody in the context of disturbances that had occurred on 21 January 2011 in Tirana. For this purpose, the delegation interviewed in private virtually all the persons still in detention (some 35 in total) and examined relevant records at Tirana Prisons Nos. 302 and 313 and at several police establishments in Tirana (Police Directorate General, Police Stations Nos. 1 and 2). In the course of the visit, the delegation held consultations with Lulzim Basha, Minister of the Interior, and Hysni Burgaj, Director General of the State Police, as well as with Ina Rama, Prosecutor General of Albania. In addition, **it met representatives of the Office of the People´s Advocate (in their capacity as National Preventive Mechanism under the Optional Protocol to the United Nations Convention against Torture)** and Dr. Besim Ymaj, Director of the National Institute of Forensic Medicine.

Council of Europe anti-torture Committee publishes report on Ireland (10.02.2011)

The CPT has published on 10 February a report on its fifth periodic visit to Ireland, which took place from 25 January to 5 February 2010, together with the response of the Irish Government. Both documents have been made public at the request of the Irish authorities. In the course of the visit, the CPT reviewed the treatment of people detained by the Irish police, the Garda Síochána. It also examined the treatment of inmates and conditions of detention in a number of prisons, as well as visiting three psychiatric hospitals, and an institution for persons with intellectual disabilities. The information gathered in the course of the 2010 visit indicates that progress continues to be made in reducing ill-treatment by police officers; nevertheless, the persistence of some allegations makes clear that the Irish authorities must remain vigilant. The CPT recommends that senior police officers remind their subordinates at regular intervals that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions. The CPT also criticises the use of special observation cells and encourages the authorities to continue to improve access to psychiatric care in prisons. More generally, the CPT observes that several of the prisons visited remained overcrowded with poor living conditions, and that they offered only a limited regime for prisoners. Recommendations are also made in relation to the disciplinary process, complaints procedures and contacts with the outside world. In the two psychiatric hospitals of St. Brendan's (Dublin) and St Ita's (Portraine), and St. Joseph's Intellectual disability service (Portraine), the CPT found a significant level of violence, both between patients and directed towards staff, as well as poor living conditions for patients. The CPT also expresses concern as regards the understaffing in all three institutions. Further, the Irish authorities are urged to make progress in adopting a new Mental Capacity Bill in order to replace the outdated 1871 Lunacy Regulation (Ireland) Act. As regards mental health institutions and institutions for persons with intellectual disabilities, the authorities refer to the recruitment of additional staff and investments in both new and existing infrastructures.

C. European Commission against Racism and Intolerance (ECRI)

Five new ECRI reports (08.02.2011)

ECRI published on 8 February five new reports on the fight against racism, racial discrimination, xenophobia, antisemitism and intolerance in Armenia, Bosnia and Herzegovina, Monaco, Spain and Turkey. ECRI's Chair, Nils Muiznieks, said that while there has been progress, there are still issues of concern in all five countries. Report on Armenia; Report on Bosnia and Herzegovina; Report on Monaco; Report on Spain; Report on Turkey

D. Framework Convention for the Protection of National Minorities (FCNM)

Cyprus: Election of an expert to the list of experts eligible to serve on the Advisory Committee (09.02.2011)

Resolution CM/ResCMN(2011)1 adopted by the Committee of Ministers "Declare elected to the list of experts eligible to serve on the Advisory Committee on the Framework Convention for the Protection of National Minorities on 12 January 2011: Mr Yiannakis CHRYSOSTOMIS, in respect of Cyprus."

Ukraine: Election of an expert to the list of experts eligible to serve on the Advisory Committee (10.02.2011)

Resolution CM/ResCMN(2011)2 adopted by the Committee of Ministers "Appointed as ordinary member of the Advisory Committee on the Framework Convention for the Protection of National

Minorities for a term which will commence on 12 January 2011 and expire on 31 May 2012: Ms Olga BUTKEVYCH in respect of Ukraine."

E. Group of States against Corruption (GRECO)

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F. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)

Moldova: High Level Mission under the Compliance Enhancing Procedures (02.02.2011)

A MONEYVAL High Level Mission to Moldova took place on 1-2 February 2011 under Step (iv) of its Compliance Enhancing Procedures. The mission comprised Mr Christos Giakoumopoulos, Director of Monitoring, Mr Vladimir Nechaev, President of MONEYVAL, Mr Boudewijn Verhelst, scientific expert to MONEYVAL, and Mr John Ringguth, Executive Secretary to MONEYVAL. The mission met with the Mr Marian Lupu, Acting President of Moldova, Mr Vladimir Filat, Prime Minister, and representatives of authorities dealing with anti-money laundering and countering the financing of terrorism (AML/CFT) issues, including representatives of the banking sector. The mission also had meetings in the Constitutional Court of Moldova. The mission discussed issues relating to the AML/CFT Law in the light of a recent decision by the Constitutional Court and a full report will be made to the next MONEYVAL Plenary meeting (11-15 April 2011).

G. Group of Experts on Action against Trafficking in Human Beings (GRETA)

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[*] No work deemed relevant for the NHRSs for the period under observation.

Part IV: The inter-governmental work

A. The new signatures and ratifications of the Treaties of the Council of Europe

2 February 2011

Ukraine ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198).

4 February 2011

Georgia approved the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199)

10 February 2011

Serbia ratified the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (ETS No. 082), and the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine-Convention on Human Rights and Biomedicine (ETS No. 164).

11 February 2011

Estonia signed the European Convention on the Abolition of Legalisation of Documents executed by Diplomatic Agents or Consular Officers (ETS No. 63).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/Rec(2011)3E / 02 February 2011: Recommendation of the Committee of Ministers to member States on the principle of autonomy of sport in Europe (Adopted by the Committee of Ministers on 2 February 2011 at the 1104th meeting of the Ministers' Deputies).

CM/ResCMN(2011)4E / 09 February 2011: Framework Convention for the Protection of National Minorities – Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Estonia (Adopted by the Committee of Ministers on 9 February 2011 at the 1105th meeting of the Ministers' Deputies).

C. Other news of the Committee of Ministers

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[*] No work deemed relevant for the NHRSs for the period under observation.

Part V: The parliamentary work

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A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe

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B. Other news of the Parliamentary Assembly of the Council of Europe

➢ *Countries*

PACE co-rapporteurs urge all parties to find negotiated solution to current crisis in Albania (03.02.2011)

The co-rapporteurs of PACE for the monitoring of Albania, Jaakko Laakso (Finland, UEL) and Thomáš Jirsa (Czech Republic, EDG), have urged all parties to find a negotiated solution to the current political crisis in Albania, and to refrain from any action that could further escalate the already tense situation. "This crisis is doing lasting damage to Albania's democratic institutions and is endangering the very stability of the country," said the two co-rapporteurs. "We are especially concerned about actions that bring into doubt the freedom of the media, as well as recent calls to disobey legitimate state institutions," they added. The co-rapporteurs stressed that the solution to the most recent conflict could never come from the street, but only from a negotiated compromise by the two parties that are the main protagonists in the stand-off. "We reaffirm our continued willingness to assist the parties in finding a negotiated solution to this conflict if they so wish," they underlined. The rapporteurs intend to make a visit to Albania from 21 to 24 March 2011.

PACE co-rapporteurs conclude monitoring visit to Azerbaijan (03.02.2011)

Joseph Debono Grech (Malta, SOC) and Pedro Agramunt (Spain, EPP/CD), PACE co-rapporteurs on the honouring of obligations and commitments by Azerbaijan, have completed a three-day visit to the country (1-3 February 2011), during which they studied the current political situation following the elections and discussed the state of the Assembly's monitoring procedure with the authorities, political parties and civil society. In Baku, they met the Speaker of Parliament, the Ministers of Justice and National Security, the Prosecutor General and the Chairman of the Central Electoral Commission. **They also held talks with representatives of the political parties, the President of the Supreme Court, the Ombudsman**, the Azerbaijani delegation to PACE, the diplomatic community, non-governmental organisations, religious associations and representatives of the media. They also met former newspaper editor Eynulla Fatullayev in prison. In Sumgait, the co-rapporteurs also met representatives of the local authorities and non-governmental organisations.

PACE President welcomes willingness of Moldovan political parties to dialogue to solve the political deadlock (09.02.2011)

At the end of his official visit to Moldova (8-10 February), the PACE President Mevlüt Cavusoglu welcomed the willingness of Moldovan political parties to dialogue to solve the political deadlock. "Any solution to overcome the current deadlock concerning the election of the President of Moldova should be based on a large consensus of political forces. It is therefore fundamental for the majority and the opposition to engage, without further delay, in meaningful negotiations and to accept compromises in the interest of the country," the PACE President said on 9 February during a press conference in Chisinau. "Three elections and one referendum took place in less than two years. The country now needs political stability to make progress on the reforms it urgently needs," Mevlüt Cavusoglu stressed. "It is of utmost importance, that a lasting solution is found without blocking the normal functioning of Moldova's institutions, in particular the Parliament, and in conformity with the Moldovan Constitution and laws as well as with Council of Europe standards," the President added and invited the authorities to seek advice of the Council of Europe's Venice Commission. "A solution of this deadlock must also go hand in hand with work on a far-reaching institutional and legislative reform, including constitutional amendments where relevant, in order to establish genuine democratic

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safeguards against similar situations of institutional and political deadlock," he stressed. The President recalled that Moldova was still under the PACE monitoring procedure and invited both the majority and the opposition to concentrate fully on completing the implementation of remaining commitments and obligations to the Council of Europe. He finally stressed that these reforms were also needed to accelerate the integration process with the European Union and advance towards a visa-free regime with the EU. During his visit the PACE President met the Acting President of the Republic and Speaker of Parliament Marian Lupu, Prime Minister Vlad Filat, Deputy Prime Minister and Minister of Foreign Affairs and European Integration Iurie Leanca, as well as the different political forces represented in parliament.

PACE Legal Affairs Committee head reacts to UK vote on prisoner voting (11.02.2011)

Following the 11 February vote in the House of Commons on prisoners' voting rights, Christos Pourgourides (Cyprus, EPP/CD), Chair of the Committee on Legal Affairs and Human Rights of PACE, made the following statement: "I am deeply disappointed by last night's vote, in defiance of the ruling by the Court on prisoner voting. I had hoped that the parliament of one of Europe's oldest democracies – regarded as playing a leading role in protecting human rights – would have encouraged the United Kingdom to honour its international obligations, as our Assembly urged only last month. Every member State must implement the judgments of the Court. The United Kingdom government has said that it intends to implement this judgment, and I encourage it to find a way to do so that is consistent with its international legal obligations. There are different ways this can be done, as shown by the range of positions on this issue in Council of Europe member States." PACE resolution on the abolition of restrictions on the right to vote: PACE resolution on the implementation of judgments of the European Court of Human Rights

- *Themes*

PACE President: 'All forms of intolerance are on the rise again' (01.02.2011)

"All forms of intolerance towards those considered 'different' are on the rise again. Ethnic, religious or cultural differences between people are being artificially exacerbated and manipulated in political discourse, to divert attention from the real problems and real solutions. Politicians and parties reverting to such discourse have now been democratically elected in many national parliaments," warned PACE President Mevlüt Çavusoglu, speaking on 1 February in Auschwitz at a ceremony in memory of the victims of the Holocaust.

Mats Johansson to deal with media freedom issues for PACE committee (03.02.2011)

Mats Johansson (Sweden, EPP/CD) has been appointed as the Standing Rapporteur on Media Freedom of the Committee on Culture, Science and Education of PACE. Mr Johansson, who replaces the late Andrew McIntosh (United Kingdom, SOC), has been a journalist for 40 years, as well as publisher and writer, and was the Political Editor of the leading Swedish daily Svenska Dagbladet before entering parliament. He is also a former Spokesman for his party on media affairs and has served on the Boards of Swedish Television and Swedish Radio. "I am delighted to take over this important role in the Council of Europe, and I look forward to building on the excellent work of Lord McIntosh," Mr Johansson said on 3 February. "Democracies need many voices to work properly, and I intend to work closely with partners from other parts of the Council of Europe, international organisations and civil society to counter the increasing threats to media freedom in Europe." The Parliamentary Assembly brings together 318 parliamentarians from the 47 member States of the Council of Europe. Standing Rapporteur on Media Freedom – further information (PDF)

PACE President expresses concern about the rise of extremist rhetoric in Europe (10.02.2011)

Speaking on 10 February at the Moscow State University of Culture and Art, where he was awarded an "honoris causa" degree, PACE President Mevlüt Çavusoglu welcomed the positive climate in relations between Russia and the Council of Europe. He said Russian MPs and experts were greatly contributing to the functioning of the Organisation, by actively working on an equal footing with their fellow European colleagues on the most pressing challenges society has to face. Referring to the Assembly priorities, he expressed concern about the general rise of extremist, racist and xenophobic rhetoric in many of our member States. "The foundation of our common European home must be built on an open society based on respect for diversity not on exclusion, not on discrimination, not on fear and not on hatred," said the PACE President. "We must eradicate racism, xenophobia, anti-semitism, Islamophobia and all kinds of similar phobias leading to discrimination and intolerance," he continued.

In this context, he stressed that intercultural dialogue and its inter-religious dimension was the most effective tool for promoting mutual understanding and fighting against discrimination and expressed hope that the debate on this issue, which the Assembly will be holding during the April 2011 part-session, will provide an opportunity to have a fresh look at the problems as well as to come up with some new solutions and approaches. Mr Cavusoglu addressed the Moscow State University of Culture and Art at the invitation of Ilyas Umakhanov, Vice-President of the Council of the Federation and Ramazan Abdulatipov, Rector of the University.

PACE President meets the Dialogue Eurasia Platform (11.02.2011)

The role of NGOs is indispensable in promoting intercultural and inter-religious dialogue, declared Mevlüt Çavusoglu, President of PACE, speaking during a meeting with the “Dialogue Eurasia Platform” held on 11 February in Moscow. He expressed appreciation and support for the activities of this major non-governmental organisation, which promotes tolerance and peaceful co-operation among nations and different ethnic groups in the Euro-Asian space. The PACE President stressed that NGOs are partners in the fight against growing intolerance and xenophobia in society. They also make a valuable contribution to the integration of migrants and the fight against discrimination, the President added. Finally, he announced his intention to initiate, in connection with the June part-session of the Parliamentary Assembly, a conference involving NGOs active in the field of intercultural and inter-religious dialogue.

Part VI: The work of the Office of the Commissioner for Human Rights

A. Country work

Hungary: Commissioner Hammarberg initiates dialogue and calls on the authorities to ensure freedom of expression and media pluralism (01.02.2011)

"Hungary should incorporate Council of Europe standards on freedom of expression and media pluralism when reviewing its media laws," said the Council of Europe's Commissioner for Human Rights Thomas Hammarberg on 1 February commenting on the 'media law package' introduced by the Hungarian authorities between June and December 2010, and which is now in force. Speaking at the end of a visit to Budapest from 27 to 28 January, Commissioner Hammarberg emphasised that the Council of Europe is well placed to advise the Hungarian authorities on how to ensure that domestic media law is fully human rights compliant. (more)

Turkey: Efforts to protect freedom of religion need to be strengthened (03.02.2011)

"Positive steps have been undertaken to allow religious minorities to freely manifest their beliefs. However, a number of outstanding issues, which require the attention of the Turkish authorities remain", said on 3 February the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing a letter on the issue addressed to the Turkish government. Read the reply from the Turkish authorities

B. Thematic work

Restrictive laws prevent families from reuniting (02.02.2011)

It is becoming more and more difficult for immigrants in Europe to have their family members join them. Even long-term residents and naturalised citizens are being deprived of this human right as policies in host countries are now becoming more restrictive and selective, said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, in his Human Rights Comment published today. Applicants have to fulfil unreasonable requirements which create insurmountable obstacles to them to living with their loved ones. Read the Comment

Migration and human rights: seminar in Istanbul (07.02.2011)

The protection of the human rights of immigrants, asylum seekers and refugees is one of the greatest challenges which Council of Europe member states currently face and one of the major themes in the Commissioner's work. The seminar "Human rights dimensions of migration in Europe", organised in Istanbul on 17-18 February by the Council of Europe Commissioner for Human Rights and the Turkish Chairmanship of the Council of Europe Committee of Ministers, aims to exchange views on the most important discrepancies between European migration laws and practices and human rights standards, as well as on optimal ways to provide assistance to states in reflecting on and revisiting their migration policies. Link to the programme

Migrant children should not be detained (08.02.2011)

Thousands of migrant children are detained every year in Europe. They are forcibly brought to detention centres in a number of countries, in most cases with a view of preparing for their deportation. There they have to endure prison-like conditions, in spite of not having committed any crime, said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, in his Human Rights Comment published on 8 February. Some of these children have arrived with their parents, others are on their own, unaccompanied. In both cases they experience fear and uncertainty while in detention. In most cases they are also deprived of education and are sometimes also exposed to abuse and violence. Read the Comment

Part VII: Activities of the Peer-to-Peer Network
(under the auspices of the NHRS Unit of the Directorate General of Human Rights and Legal Affairs)

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[*] No work deemed relevant for the NHRSs for the period under observation.