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*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

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.

- **Right to life**

Tsintsabadze v. Georgia (no. 35403/06) (Importance 1) – 15 February 2011 – Violation of Article 2 (substantive and procedural) – Death of the applicant's son in suspicious circumstances in prison and lack of an effective, objective and independent investigation into his death

The applicant's son was discovered hanged in Khoni Prison on 30 September 2005. He was serving a three-year sentence for having resisted police officers who had been called to his former wife's home on account of his violent behaviour. The prisoner governor immediately informed the Ministry of Justice's investigation department and investigative measures were taken, including an inspection of the scene of the death, an autopsy and examination of witnesses. On 1 October 2005 an investigator from the Ministry was sent to examine the scene of the hanging: two deputy governors of the prison took part in the process, providing the investigator with the rope the applicant's son had used to hang himself and his shoes. Both were put under seal. Two chairs found beneath the applicant's son were also handed over to the investigator; they were not placed under seal. The National Forensics Bureau carried out an autopsy concluding that the cause of death was mechanical asphyxia by hanging; no lesions, apart from a strangulation mark on the throat, were found. At the request of the applicant an independent autopsy was also subsequently carried out which confirmed the first autopsy's conclusion concerning the cause of death. It further noted a lesion caused by a blunt object near the strangulation mark on their son's neck. Numerous witnesses – the prison governor, a warder, the prison doctor and various inmates – stated that the applicant's son had made previous suicide attempts. The governor in particular cited the reasons for the applicant's suicide as being his disappointment at his wife going to Turkey. The applicant consistently denied before the domestic authorities that her son had committed suicide, claiming that he might have been killed and that the Khoni prison authorities had covered the murder up. From the very beginning of the investigation she informed the investigator that her son had been anxious about payments he was being forced to make to the prison's "kitty", an obligatory "tax"

for all prisoners racketeered by the makurebelis in collusion with the prison administration. She alleged that part of the "kitty" was paid to the administration in return for certain favours (permission to play cards, leave a cell or receive a prohibited item such as a mobile phone). She stated that her son had frequently called her and relatives asking for money in order to meet those payments. In November 2005 the criminal proceedings brought against a person or persons unknown for having driven the applicant's son to commit suicide were dismissed by the prosecuting authorities for lack of evidence. In August 2006 the prosecuting authorities dismissed the case as it considered that there were no grounds for bringing a public prosecution.

The applicant alleged that her son had been killed and his murder been made to look like a suicide. She also alleged that the authorities' investigation into her son's death had been inadequate.

Article 2

First, the Court noted that the investigators of the applicant's son's death and the Zhoni Prison staff – necessarily implicated in the incident – were both under the direct supervision of the Ministry of Justice and that that raised legitimate doubts as to the independence of the investigation. Those doubts were substantiated by the manner in which the investigation had actually been carried out. Surprisingly, the scene of the hanging was not sealed off and prison staff had removed such important pieces of evidence as the rope and chairs allegedly used for the suicide, taken off the deceased's shoes and gone through his pockets. The chairs had not been sealed off – unlike the other objects discovered – and no fingerprints had been taken from them. Nor had fingerprints been taken from the storeroom door, lock or padlock to see if they compared with the applicant's son's fingerprints. The prison security guard on duty who would have been monitoring the storeroom that night had not been identified or questioned. There was an obvious inconsistency between the two autopsy reports which had never been explained or even investigated. The Court therefore concluded that the official version of a suicide simply did not hold. What is more, the authorities refused to explore the possibility of homicide, which was at least as plausible as the official suicide explanation, contrary to their obligation to follow all credible lines of inquiry. The Court was aware of the well-known illicit practices prevailing in Georgian prisons at the time and of the fear amongst ordinary prisoners of either mafia bosses or the prison administration. In conclusion, the Court found that the investigation into the death of the applicant's son had not been independent, objective or effective. Nor did the State provide a satisfactory and convincing explanation as regards the death, which had occurred in suspicious circumstances in prison. Georgia could thus be held directly responsible for the loss of her son's life, in violation of Article 2.

Article 41 (just satisfaction)

The Court held that Georgia was to pay the applicant 15,000 euros (EUR) in respect of non-pecuniary damage, EUR 4,047 for costs and expenses.

Soare and Others v. Romania (no. 24329/02) (Importance 1) – 22 February 2011 – Two violations of Article 2 (substantive and procedural) – (i) Disproportionate use of police force against the first applicant – (ii) Lack of an effective investigation – Violation of Article 13 – Lack of an effective remedy – No violation of Article 14 in conjunction with Article 2 – Insufficient evidence to require the authorities to ascertain whether the incident had been sparked by racist motives – Violation of Article 3 (second and third applicants) – Ill-treatment on account of the conditions in which the second and third applicants had been questioned by the police

According to the first applicant, on 19 May 2000, he and his brother (who are of Roma origin) had been chasing their former brother-in-law unarmed. A police officer had arrested him, pinned him against the hospital wall and struck him on the head before grabbing him by the shoulders and hitting him repeatedly against the wall. The pain had forced him to crouch down with his back to the wall; the police officer had allegedly drawn his gun and shot him in the head. The second and third applicants had witnessed the scene. In the Government's submission, three police officers on patrol had been obliged to intervene after observing two individuals armed with knives chasing after a third person. The first applicant had allegedly stabbed the police officer, whereupon the latter had taken out his gun in order to fire a warning shot, which had hit the first applicant directly in the head. In September 2000 the first applicant was discharged from hospital, semi-paralysed. The police officer had superficial stomach wounds caused by a sharp object. The second and third applicants were requested to go to the police station to give witness evidence. They arrived at the police station at about 7.30 p.m. and were questioned for several hours, without being given food or water. They also alleged that they had been intimidated by the police, who had pressured them into saying that the first applicant and his brother had been carrying knives. The police officers had allegedly made the witnesses sign statements which they were unable to read. In July 2003 the public prosecutor's office discontinued the proceedings against the police officer, finding that he had acted in self-defence. The incident at the

origin of this case was covered in the newspapers, which stressed the first applicant's ethnic origin and described the incident as an "armed confrontation between police and Gypsies".

The first applicant complained of the violence to which he had allegedly been subjected when he was arrested and of his shooting by the police officer, and maintained that the investigation into the incident had not been effective. He also alleged that he had had no possibility of claiming compensation for the breaches of Articles 2 and 3 and that those breaches had been due to his Roma origin. The second and third applicants complained, in particular, that they had been held for questioning at the police station for several hours without food or water.

The first applicant's complaints

Alleged risk to his life (Article 2)

The Court recalled that a legal and administrative framework had to define the limited circumstances in which law-enforcement officials could use force and firearms. The Court noted that at the time of the events in this case, Romanian law had listed a series of situations in which police officers could make use of firearms without being held liable for their actions, provided that those actions had been absolutely necessary and no other means of restraint or immobilisation had been possible. However, there had been no other provisions governing the use of weapons during policing operations, apart from a requirement to fire a warning shot, nor had there been any guidelines on the planning and management of such operations. In the Court's view, the legal framework in question did not appear sufficient to afford the required level of protection "by law" of the right to life. The Court noted that the Government's assertion that the shot which wounded the first applicant had been fired unintentionally was incompatible with the investigation's finding that the officer had fired in self-defence; if the officer really had acted in self-defence, the firing of the shot could have been compatible with Article 2. The evidence before the Court was not sufficient to satisfy it that the first applicant and his brother had been armed and that the officer who fired the shot had therefore acted in self-defence. The findings of the investigation were not very convincing in that regard, based as they were on the statements given by the police officers implicated in the events, by the first applicant's former brother-in-law (who was involved in a dispute with him) and by a hospital security guard who had not witnessed the scene. The witness statements made by the second and third applicants, who had been present, had not been taken into consideration. This was particularly surprising given that the former had apparently grabbed the police officer by the waist after he had fired the shot. There had been no investigation concerning the knife found in the police car, although the question whether the police officer might have inflicted the injuries on himself had not been resolved. The Court also identified a number of other omissions and contradictions in the investigation. It concluded that it had not been demonstrated that the force used against the first applicant had been compatible with Article 2, in violation of Article 2.

Alleged inadequacy of the investigation (Article 2)

The Court recalled that the obligation to protect the right to life required that an "effective" official investigation be carried out where individuals had been killed as a result of the use of force. An investigation had been carried out in the present case, mainly by the military prosecutor's office and subsequently, following a change in the legislation, by the civilian prosecutor's office. The Court pointed out that where an investigation was carried out into killing or ill-treatment by agents of the State, it was necessary for the investigators to be independent from the persons implicated in the events. The Court's case-law clearly indicated that this was not the case with the military prosecutor, who at the relevant time had been a military official, as were the police officers being investigated. The intervention of the civilian prosecutor – who had confined his actions to taking evidence once from the police officer who had fired the shot, before discontinuing the proceedings a month later – had not been sufficient to overcome that deficiency. After examining in greater detail the conduct of the investigation by the military prosecutor's office, the Court also noted several shortcomings. Furthermore, the failure to inform the first applicant or his lawyer of the reasons for the decision to discontinue the proceedings was unacceptable. There had thus been a further violation of Article 2.

Alleged impossibility of claiming compensation through the courts (Article 13)

The Court had already answered in the negative in several other Romanian cases the question of whether the civil action for compensation which the first applicant could have brought against the police officer who fired the shot would have constituted an "effective remedy" and it saw no reason to reach a different conclusion in this case. There had been a violation of Article 13 in conjunction with Article 2.

Alleged discrimination on account of the first applicant's ethnic origin (Article 14)

The Court first took the view that, while the conduct of the officer in question was open to serious criticism, it did not in itself provide sufficient basis for concluding that the treatment to which the first applicant had been subjected by the police had been racially motivated. The fact that, on the evening of the incident, the police officer had stated that he had been "attacked by a Gypsy" was not sufficient

in itself to require the authorities to ascertain whether the incident had been sparked by racist motives. There had therefore been no violation of Article 14 in conjunction with Articles 2 and 3.

Complaints lodged by the second and third applicants

Alleged degrading treatment during questioning at the police station (Article 3)

The Court considered that the conditions in which the second and third applicants had been questioned by the police had caused them feelings of anxiety and inferiority. The Court made particular reference to the fact that they had been kept late into the night without food or water, in addition to having witnessed a tragedy. There had therefore been a violation of Article 3.

Just satisfaction (Article 41)

Under Article 41 (just satisfaction), the Court held that Romania was to pay the first applicant 90,000 euros (EUR) in respect of pecuniary damage (for loss of earnings resulting from his injuries) and EUR 40,000 in respect of non-pecuniary damage. It was also to pay EUR 10,000 each to the second and third applicants in respect of non-pecuniary damage. Finally, the respondent State was to pay EUR 8,291 directly to the applicants' lawyer for costs and expenses.

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

Kharchenko v. Ukraine (no. 40107/02) (Importance 3) – 18 February 2011 – Violation of Article 3 – Poor conditions of detention – Violation of Article 5 § 1 – Unlawfulness of detention – Violation of Article 5 § 3 – Excessive length of pre-trial detention – Violation of Article 5 § 4 – Lack of a speedy review of the lawfulness of the applicant's detention – Article 46 – The Court emphasized that the recurrent violations of Article 5 in cases against Ukraine showed a systemic problem; the Court requested the Ukrainian Government to submit a reform strategy within six months from the date on which the judgment becomes final

The prosecutor ordered the applicant's detention on 7 April 2001, as he was suspected of being involved in embezzlement of a company's funds. His detention was extended several times and his repeated requests for release were rejected. The applicant was released in August 2003 after he signed an undertaking that he would not abscond. In September 2004, the criminal proceedings against him were terminated for lack of evidence of his involvement in the crime. According to the applicant, between April 2001 and August 2003, he was held in Kyiv SIZO (pre-trial detention centre) no. 13, in overcrowded cells which were damp and very cold in winter. The Government submitted that the number of detainees had not exceeded the number of places in each cell and that the cells were well-ventilated and lit, and cold water was constantly supplied. The applicant sought medical assistance for his chest pain and dizziness. He was treated in the SIZO's medical wing between January and March 2003, when he left in a satisfactory state of health.

The applicant complained that he had been detained, unlawfully and for too long awaiting trial, in poor conditions, despite suffering from a number of chronic illnesses.

Article 3

The Court noted that the applicant and the Ukrainian Government disagreed about how much cell space had been available to him in detention. According to the Government, in the cell in which the applicant had been kept, the average amount of living space per detainee had been between 2.55 and 4.67 square metres. While no evidence had been presented to the Court confirming that submission, in the light of the Court's established case law and the standards of the European Committee for the Prevention of Torture, the Court concluded that the applicant had been detained in over-crowded conditions for over two years and three months, in violation of Article 3.

Article 5 § 1

The Court examined three different periods of the applicant's pre-trial detention. In respect of the first period the decision to extend his detention had been taken by a prosecutor. Given that a prosecutor was not an independent officer authorised by law to exercise judicial power, the applicant's detention during that period had been unlawful, in violation of Article 5 § 1 c. As regards the second period of detention, the applicant had remained in custody without any judicial decision, while the investigating authorities had been working on the bill of indictment. The Court had already found violations of Article 5 in cases in which people were held in detention without a specific legal basis, which was incompatible with the principles of legal certainty and protection from arbitrariness, in violation of Article 5 § 1. As to the last period of detention, the district court had rejected the applicant's request for release in order to prevent him from absconding from the investigation and not appearing in court. The Court noted that the Ukrainian code of criminal procedure allowed domestic courts to decide on

suspects' detention without giving any reasons or fixing any time-limit for it. That had left the applicant in a state of uncertainty, which was in violation of Article 5 § 1.

Article 5 § 3

The Court noted that the applicant's pre-trial detention had lasted for two years , three months and 15 days, and that no other grounds than the risk of his absconding had been advanced at any time for keeping him in detention, in violation of Article 5 § 3.

Article 5 § 4

Although several requests for release had been examined by the Ukrainian courts, their decisions had been based on a standard set of grounds, without any examination of whether those grounds had been relevant for the applicant's situation. The Court noted also that the lawfulness of the applicant's detention had only been reviewed by the court 19 days after he had submitted his review request. That appeared to be a recurring problem in cases against Ukraine, due to the lack of clear and foreseeable provisions in the law. There had therefore been a violation of Article 5 § 4.

Article 46

In the present case the Court found violations under Article 5, which can be said to be recurrent in the case-law against Ukraine. The Court regularly finds violations of Article 5 § 1 (c) as to the periods of detention not covered by any court order and the court orders made during the trial stage often fix no time-limits for further detention. **Both issues seem to stem from legislative lacunae**. The Court often finds a violation of Article 5 § 3 on the ground that even for lengthy periods of detention the domestic courts often refer to the same set of grounds, if any, throughout the period of the applicant's detention, although Article 5 § 3 requires that after a certain lapse of time the persistence of a reasonable suspicion does not in itself justify deprivation of liberty and the judicial authorities should give other grounds for continued detention, which should be expressly mentioned by the domestic courts. It has been the Court's practice, when discovering a shortcoming in the national legal system, to identify its source in order to assist the Contracting States in finding an appropriate solution and the Committee of Ministers in supervising the execution of judgments. **Having regard to the structural nature of the problem disclosed in the present case, the Court stresses that specific reforms in Ukraine's legislation and administrative practice should be urgently implemented in order to bring such legislation and practice into line with the Court's conclusions in the present judgment to ensure their compliance with the requirements of Article 5.** The Court leaves it to the State, under the supervision of the Committee of Ministers, to determine what would be the most appropriate way to address the problems and requests the Government to submit the strategy adopted in this respect within six months from the date on which the present judgment becomes final at the latest.

Article 41 (just satisfaction)

Under Article 41, the Court held that Ukraine was to pay the applicant 20 000 euros (EUR) in respect of non-pecuniary damage.

- **Right to a fair trial**

Eşref Çakmak v. Turkey (no. 3494/05) (Importance 2) – 15 February 2011 – Violation of Article 6 § 1 – Interference with the applicant's right of access to a court on account of the domestic courts' refusal to grant the applicant legal aid, preventing him from paying procedural costs and thus leading to the rejection of his claim

Soon after the beginning of his compulsory military service in May 2001, when giving blood, the applicant was diagnosed as being infected with the hepatitis B virus. He claimed compensation from the State, in a letter to the Turkish Ministry of the Interior, alleging that he had contracted the disease through poor hygiene conditions during his military service. His claim was rejected by the authorities on the grounds that no compensation was possible without a prior judicial decision. The applicant lodged a compensation claim, together with a request for legal aid, with the High Military Administrative Court. In Turkish administrative law two conditions have to be fulfilled for a grant of legal aid: lack of resources and the well-roundedness of the request. In support of the request it is necessary to produce a certificate of indigence showing that the payment of all or part of the procedural costs would be detrimental to the claimant's subsistence or that of his family. Under the Turkish Code of Civil Procedure the decision whether or not to grant legal aid is final and not appealable. In addition, all claimants are required to pay procedural costs when they file their initial statement of claim. If they still have not paid those costs after two orders to pay, they are considered not to have brought their action in the first place. The applicant provided a certificate of indigence issued by his neighbourhood's elected representative on the municipal council and his declaration that

he was below the threshold for income tax. The High Court rejected his request for legal aid on the ground that the statutory conditions were not fulfilled and requested the applicant to pay the procedural costs, amounting to 2,076,970,000 Turkish lira (about EUR 1,280). When he failed to pay, the High Court declared that his action had not been brought.

The applicant alleged that the High Court's refusal to grant him legal aid had deprived him of his right of access to a court and thus also his right to obtain redress for the damage he claimed to have sustained.

The Court first observed that the failure to pay procedural costs had led the High Court to declare that the applicant's claim had not been filed. Bearing in mind that the aim of the Convention was to protect practical and effective rights, the Court took the view that the amount of those costs represented an excessive burden for the applicant in the light of economic data from the relevant period. The documents produced by the applicant provided sufficient proof of his financial situation. However, they had clearly not been taken into account in the High Court's decision. Above all, the High Court's decision had not given any reasons and it was thus impossible to ascertain whether there had been an effective and meaningful examination of the applicant's situation. The Court thus found that the rejection of his request for legal aid had completely deprived the applicant of the possibility of having his case heard by a court. It thus took the view that the applicant had not had a practical and effective right of access to the High Court. Article 6 § 1 had thus been breached.

Under Article 41 (just satisfaction), the Court held that Turkey was to pay the applicant EUR 3,000 in respect of non-pecuniary damage and EUR 500 in respect of costs and expenses;

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

Geleri v. Romania (no. 33118/05) (Importance 3) – 15 February 2011 – Violation of Article 8 – Violation of Article 1 of Protocol No. 7 – The measures imposed on the applicant concerning his expulsion order from Romania on grounds of national security did not guarantee him a minimal degree of protection against arbitrariness

The applicant is a Turkish national of Kurdish origin. At the relevant time, the applicant was lawfully residing in Bucharest. He had been granted political asylum in 1998, a decision that was upheld by a final decision in 2001. By an order of 21 February 2005, the prosecutor at the Bucharest Court of Appeal declared the applicant persona non grata and banned him from entering Romania for ten years, on the ground that "sufficient and reliable information indicates that he [was] engaged in activities posing a threat to national security". On 23 February 2005 this order was communicated to the applicant without further explanation and he was expelled to Italy on the same day. The applicant's lawyer challenged the expulsion order before the Bucharest Court of Appeal complaining that reasons had not been given for the order. He also argued that the applicant had been living for many years in Romania, was married to a Romanian with whom he had had a child, and was an associate in commercial companies in Romania. By a final decision in March 2005, the Bucharest Court of Appeal dismissed that challenge as unfounded holding that the evidence forming the basis of a decision declaring an alien persona non grata on the ground of national security could not in any circumstances be communicated to the person in question, since that information was classified as secret by the law. The appeal court added that the Constitutional Court's case-law had confirmed that that rule was in accordance with the Constitution. In April 2005 the Romanian Office for Refugees withdrew the applicant's refugee status. His challenging above decision before the courts was dismissed by the High Court of Cassation and Justice in 2006.

The applicant complained, in particular, that the measures imposed on him had been contrary to Article 8 of the Convention and Article 1 of Protocol No. 7

Article 8

The Court noted firstly that the applicant's expulsion and the prohibition on his entering the territory of Romania had infringed both his "private" and "family" life. Such a situation could, however, be in accordance with the Convention if it was "in accordance with the law", pursued a legitimate aim and was "necessary in a democratic society". The Court reiterated that the "law" in question was primarily required to protect the individual from arbitrary conduct by the authorities, by offering him the chance to have the disputed measure examined by an independent and impartial body, empowered to examine all the relevant factual and legal issues. Yet the body which examined the applicant's appeal had conducted a purely formal examination of the expulsion order. In addition, the court of appeal had been provided with no further explanation with regard to the applicant's alleged offences, so that it had been unable to go beyond the prosecution service's allegations in verifying whether the applicant genuinely posed a danger to national security or public order. Thus, the measures imposed on the applicant did not guarantee him a minimal degree of protection against arbitrariness. It followed that

the interference in his right to respect for his family and private life had not been in accordance with a "law" that met the requirements of the Convention. There had been therefore a violation of Article 8.

Article 1 of Protocol No. 7

The Court recalled that under Article 1 § 2 of Protocol No. 7, expulsion on the grounds of national security was, in principle, a case in which a foreigner could be expelled before the exercise of the procedural guarantees set out in paragraph 1 of the same Article. However, those guarantees were supposed to be offered prior to expulsion to a foreigner who was lawfully residing in the territory of the respondent State. That was the case for the applicant. He could therefore only be expelled "in pursuance of a decision reached in accordance with law" and, in particular, had been entitled to "submit reasons against his expulsion" and "to have his case reviewed". The Court reiterated its finding under Article 8 concerning the quality of the Romanian "law" under which the applicant had been expelled: it had not provided him with minimum guarantees against arbitrariness. In addition, the Bucharest Court of Appeal had limited itself to a purely formal examination of his complaints. Further, the Court noted that the authorities had not provided the applicant with the least indication of the offences of which he was suspected and which were the basis for the finding that he posed a threat to national security. In those circumstances, the procedural guarantees to which the applicant was entitled had not been respected, in violation of Article 1 of Protocol No. 7.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Romania was to pay the applicant 13,000 euros (EUR) in respect of pecuniary and non-pecuniary damage, and EUR 6,300 in respect of costs and expenses.

Golemanova v. Bulgaria (no. 11369/04) (Importance 2) – 17 February 2011 – No violation of Article 8 – Domestic courts' justified refusal to allow the applicant to change her official forename to the name she normally used

According to the applicant, since childhood she has been known exclusively by the name Maya, both within and outside her family, even though her officially registered forename is Donka. She claims that she only discovered her official forename at the age of 11 when she changed schools. In late 2001 she lodged a request for a change of forename with the court of Cherven Bryag. Assisted by a lawyer in the proceedings, she had testimony taken from a cousin and a former colleague, who confirmed that she was known as Maya in her family and at work. In March 2002 the court rejected the request for a change of forename. Observing that the law authorised a change of forename only if there were "serious reasons", it found that the applicant had not given any. In the court's view, the provision was applicable only in the most serious cases, involving for example an immediate risk to the life of the person concerned. The applicant lodged an appeal against the decision, which was dismissed by the Pleven Regional Court. The applicant appealed on points of law. She complained in particular that the testimony at first instance of her former colleague and neighbours had not been taken into account. In October 2003 the Supreme Court of Cassation adhered to the Regional Court's finding that the evidence gathered did not prove that she was known as Maya in the community at large. It took the view that the Regional Court's decision had been well-reasoned and was based on duly gathered evidence, and that Bulgarian law had been properly applied.

The applicant complained that the refusal of the Bulgarian courts to allow her to officially change her forename to the name she normally used breached her right to respect for her private and family life.

The Court began by confirming that a person's forename fell within the sphere of private and family life. The main question before it in the applicant's case was whether the refusal to authorise a change of forename had struck a fair balance between the competing interests of the applicant and of society as a whole. As regards the reasons given for the refusal to change the applicant's forename, the Court noted that the Bulgarian courts had mainly taken the view that the circle within which the applicant was known as Maya had not been wide enough for them to conclude that she had been known by that name in her social relations – whereas otherwise the name could have been changed. The courts had thus balanced the competing interests of the applicant and of society. Their decisions did not appear arbitrary or lacking in reasoning. As regards the applicant's complaint that the courts had wrongly failed to take into account the testimony of a former colleague and the content of the attestation submitted by the Mayor of her town, the Court observed that the domestic courts were in a better position than itself to establish the facts and interpret and apply domestic law. It was not convinced that the Pleven Regional Court had failed to take into account the items of evidence to which the applicant referred, even though they had not been expressly mentioned in the decision. Nor did the succinctness of the arguments in the Supreme Court of Cassation's judgment raise a problem per se. As regards the proceedings that had led to the disposal of the applicant's case, the Court did not doubt that they had been fair. She had had her claim examined by courts at three levels of jurisdiction

in the context of adversarial proceedings; she had been represented by a lawyer; lastly, she had submitted documentary evidence and had had witnesses testify in her favour. In these conditions the Court held, by four votes to three, that Article 8 had not been breached. Judges Berro-Lefèvre, Nussberger and Laffranque expressed a joint dissenting opinion.

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

Wasmuth v. Germany (no. 12884/03) (Importance 3) – 17 February 2011 – No violation of Article 9 – No violation of Article 8 – The disclosure of a taxpayer's non-affiliation with a religious society authorised to levy religious tax did not violate his right to freedom of religion

The applicant is a lawyer in private practice and is also employed as a lector in a publishing house. On his wage-tax cards of the last few years, the entry "--" could be found in the field "Church tax deducted", informing his employer that he did not have to deduct any church tax for the applicant. After having unsuccessfully requested the local authorities to issue him a wage-tax card without any information concerning his religious affiliation and having unsuccessfully brought proceedings before the German courts in that matter, the applicant again made such a request concerning his tax card to be issued for 2002. He subsequently brought proceedings before the finance court, arguing that the information on the tax card violated his right not to indicate his religious convictions, that there was no legal basis for the public treasury to levy church tax and that it could not be expected of him as a homosexual to participate in a tax collection system which benefited social groups, the churches, whose stated goal was to question and to debase an integral aspect of his personality. The finance court rejected the applicant's claim in February 2002, holding that the local fiscal authorities were entitled under the relevant provisions of Bavarian law and German federal law to obtain information about employees' affiliation or non-affiliation with a religious society authorised to levy church tax and to submit that information to the employer in charge of deducting the tax. The entry served to avoid him having to unduly pay church tax. In the court's view, the interference with the applicant's fundamental rights was minimal. The court further pointed out that the views of the Catholic and Protestant churches in Germany did not interfere with the applicant's personality rights. The churches' position did not give the applicant the right to refuse to participate in the church tax system. The decision was upheld by the Federal Court of Finance. The Federal Constitutional Court rejected the applicant's constitutional complaint, referring to its decision of May 2001 not to accept his earlier complaint, in which it had found that the disclosure of a taxpayer's non-affiliation with a religious society authorised to levy religious tax did not place an unacceptable burden on him.

The applicant complained that the compulsory disclosure on his wage-tax card of his non-affiliation with a religious society authorised to levy religious tax amounted to a breach of Article 8 and Article 9, and also of Article 14 taken together with Article 9. The Protestant Church of Germany and the (Catholic) Association of German Dioceses were granted leave to intervene in the proceedings as third parties and submitted written statements.

Article 9

In accordance with its recent case-law, the Court found that the obligation to inform the authorities of his non-affiliation with churches or religious societies authorised to levy religious tax constituted an interference with the applicant's right not to indicate his religious convictions. The Court was satisfied that that obligation had a basis in German law. The interference had served the legitimate aim of ensuring the right of churches and religious societies to levy religious tax. The Court agreed with the German Government that the reference on the tax card at issue was only of limited informative value as it simply indicated to the fiscal authorities that he did not belong to one of the churches or religious societies which were authorised to levy religious tax in Bavaria. The tax card was not in principle used in public; it did not serve any purpose outside the relation between the taxpayer and his employer or the tax authorities. The authorities had not asked the applicant to explain why he did not belong to one of the religious societies authorised to levy religious tax and did not verify what his religious conviction was. The Court therefore found that the obligation imposed on the applicant was, in the circumstances of his case, not disproportionate to the aims pursued. The Court took note of the German courts' arguments that the applicant's participation in the system was minimal and that it served precisely to avoid him having to unduly pay church tax. There was no European standard in the area of funding of churches and religious groups, a question which was closely linked to each country's history and tradition. The Court thus concluded that there had been no violation of Article 9.

Article 8

The Court reiterated that the collection, storage and transfer of data linked to an individual's private life fell within the remit of Article 8 § 1. The obligation imposed on the applicant thus constituted an interference with his rights under that Article. However, in the light of its findings under Article 9 the Court held that that interference had been in accordance with the law and that it had been

proportionate to a legitimate aim pursued for the purpose of Article 8 § 2. There had been no violation of Article 8. Judge Berro-Lefèvre expressed a dissenting opinion, joined by Judge Kalaydjieva.

- **Freedom of expression**

Çamyar and Berktaş v. Turkey (no. 41959/02) (Importance 2) – 15 February 2011 – Violation of Article 10 – Insufficient reasons given by the domestic courts to justify the conviction of the applicants for making propaganda about an illegal armed organisation in their book – Violation of Article 6 § 1 – Failure to communicate to the applicants the opinion of the Public Prosecutor

The first applicant is the publisher and the second applicant is the author of a book, Hücreler ("cells"), a book generally criticising the penitentiary system in Turkey.

The applicants complained about their conviction in November 2001 for making propaganda about an illegal armed organisation, TIKB (Bolşevik) through their book. They also alleged that the proceedings against them had been unfair as the Chief Public Prosecutor's opinion submitted to the Court of Cassation on their case had not been communicated to them.

Though some of the passages from the book seem hostile in tone, the Court considered them to be an expression of deep distress in the face of tragic events that occurred in prisons, rather than a call to violence. Further, the Court took into account the fact that the impugned articles in the book, written by private individuals, would necessarily reach a relatively narrow readership compared to views expressed by well known figures in the mass media. Accordingly, this limited the potential impact of the book on "public order" to a substantial degree. Against this background, the Court considered that the reasons given by the domestic courts for convicting and sentencing the applicants cannot be considered sufficient to justify the interference with their right to freedom of expression. In the light of the foregoing considerations, the Court concluded that the applicants' conviction was disproportionate to the aims pursued and, accordingly, not "necessary in a democratic society", in violation of Article 10.

The Court further noted that it has already examined the same grievance in the case of *Göç v. Turkey* and found a violation of Article 6 § 1. In that judgment the Court held that, having regard to the nature of the Principal Public Prosecutor's submissions and to the fact that the applicant had not been given an opportunity to make written observations in reply, there had been an infringement of the applicant's right to adversarial proceedings. The Court has examined the present case and fond no particular circumstances which would require it to depart from its findings in the aforementioned case. Accordingly, there had been a violation of Article 6 § 1 of the Convention.

- **Protection of property**

Andrle v. the Czech Republic (no. 6268/08) (Importance 1) – 17 February 2011 – No violation of Article 14 in conjunction with Article 1 of Protocol No. 1 – Domestic authorities' approach concerning its pension scheme (whereby women and men who care for children are eligible for a pension at different ages) was reasonably and objectively justified and would continue to be so until such time as social and economic change in the country removed the need for special treatment of women

After his divorce, the applicant was awarded custody of his two children in July 1998 and cared for them until they reached the age of majority. In November 2003, at the age of 57, he applied to the Czech social security authorities for a retirement pension. His request was dismissed as he had not attained the age required by the Pension Insurance Act for men to be eligible for a pension (in his case, 61 years and ten months). Unlike women, that age could not be lowered according to the number of children raised. In October 2007 the national courts also dismissed his case, referring to recent proceedings before the Constitutional Court in which section 32 of the Pension was reviewed and found not to be discriminatory. The applicant's subsequent cassation and constitutional appeals were also dismissed.

The applicant complained about the current pension scheme in the Czech Republic whereby women and men who care for children are eligible for a pension at different ages. Notably, he complained that he has been denied a pension at an age when a woman in his position would have been able to receive it.

The Court considered that the lowering of the age for which women were eligible for a pension in the Czech Republic, adopted in 1964 under the Social Security Act, was rooted in specific historical circumstances and reflected the realities of the then socialist Czechoslovakia. That measure pursued a "legitimate aim" as it was designed to compensate for the inequality and hardship generated by the expectations of women under the family model founded at the time (and which persists today): that of

working on a full-time basis as well as taking care of the children and the household. Indeed, the amount of salaries and pensions awarded to women was also generally lower in comparison to men. The perception of the roles of the sexes has evolved and the Czech Government are progressively modifying its pension system to reflect social and demographic change. The very nature of that change is, however, gradual and the government cannot be criticised for not having pushed for complete equalisation of the retirement age at a faster pace. Furthermore, the task of reform is demanding, especially given the different methods to choose from for equalisation and other demographic shifts, such as the ageing of the population and migration, which have to be taken into account. Moreover, the Court emphasised that the national authorities were the best placed to determine such a complex issue relating to economic and social policies, which depended on manifold domestic variables and direct knowledge of the society concerned. Therefore, the Court found that the Czech Republic's approach concerning its pension scheme was reasonably and objectively justified and would continue to be so until such time as social and economic change in the country removed the need for special treatment of women. There had therefore been no violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1.

- **Freedom of movement**

Pfeifer v. Bulgaria (no. 24733/04) (Importance 3) – 17 February 2011 – Violation of Article 2 of Protocol no. 4 – Domestic authorities' failure to ensure that the interference with the applicant's right to leave the country for six years during criminal proceedings had been justified and proportionate throughout the duration of the continued travel ban – Violation of Article 13 – Lack of an effective remedy

In 1994 the applicant married a German national, adopted her family name and they had a daughter in 1995. In February 1992 the Bulgarian authorities opened an investigation against the applicant on suspicion that he had murdered a man. He was arrested in Offenburg and extradited to Bulgaria, where he remained in pre-trial detention between 1998 and 2001. In a judgment of April 2000 the applicant was found guilty of aggravated robbery and was sentenced to 16 years' imprisonment. A travel ban was imposed on the applicant. From 2001 to 2004, he submitted 11 requests to be allowed to travel to Germany. They were all rejected – except on two occasions – each time on the grounds that he was accused of a serious offence and that there was a risk that he would flee. The ban was lifted in August 2003 and the applicant was allowed to travel to Germany. The Court of Appeal found that his family life had suffered serious disruption and that allowing the applicant to travel to Germany would not create a risk of his evading, because he could be re-arrested and extradited. However, the court turned down the applicant's request for a full lifting of the travel ban. His subsequent requests for leave were rejected. In May 2006 the applicant was acquitted and the prohibition on his leaving Bulgaria was fully lifted. He attended all the hearings in the case against him in Bulgaria. In June 2007 Sofia Court of Appeal quashed the applicant's acquittal, found him guilty and re-imposed a new travel ban on him, without giving reasons. In March 2008 Sofia Court of Appeal granted the applicant's request to lift the travel ban. The applicant is currently in Germany, fighting an extradition request from the Bulgarian authorities, which have issued a European arrest warrant for him with a view to enforcing his sentence. The proceedings are now pending before the Karlsruhe Court of Appeal.

The applicant complained that the travel ban imposed on him had become disproportionate, that it had prevented him from maintaining normal contact with his wife and child in Germany and had led to his divorce.

Article 2 of Protocol no. 4

The Court noted that the ban imposed on the applicant restricted his freedom of movement, protected by Article 2 of Protocol no. 4. Based on the Code of Criminal Procedure, it was in accordance with the law and pursued the legitimate aims of maintaining public order and prevention of crime. The ban lasted six years. The fact that the applicant had left Bulgaria the day after allegedly committing the offence, had adopted the family name of his wife and had been extradited from Germany, might have been sufficient to justify the ban initially. However, the prosecuting authorities and the courts continued automatically to rely on these reasons until May 2006. The courts seemed to have completely overlooked the factors militating in favour of lifting the ban: the time elapsed since it had been imposed, the unreasonably slow pace of the proceedings, the applicant's attendance at all hearings, including after his trips to Germany, the increasingly serious disruption of his family life and the impossibility for him to provide adequately for his family. Moreover, Sofia Court of Appeal did not give any reasons for its decision to re-impose the ban in 2007. The authorities thus failed to ensure that the interference with the applicant's right to leave the country had been justified and proportionate throughout the duration of the travel ban and did not provide sufficient justification for the continued prohibition on his travelling abroad, in breach of Article 2 of Protocol no. 4.

Article 13

The Court noted that the possibility to seek the lifting of the initial ban as a whole had only arisen in April 2009. Prior to that, even though the requests for permission to travel on specific occasions could be regarded as remedies against the ban, the Bulgarian courts, by not considering many of the applicant's arguments in their examination of his requests and ensuing appeals, stripped that remedy of its effectiveness. As to the renewed ban, ordered in June 2007, after the applicant's appeal against this order had been declared inadmissible, it remained open to him to ask the Sofia Court of Appeal to lift the ban, which he did successfully in March 2008. There had therefore been a violation of Article 13 in respect of the initial travel ban and no violation of that provision in respect of the renewed travel ban.

Under Article 41 (just satisfaction), the Court held that Bulgaria was to pay the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,086.07 to the foundation Bulgarian Lawyers for Human Rights in respect of costs and expenses.

- **Disappearance case in Chechnya**

Khakiyeva, Temergeriyeva and Others v. Russia (nos. 45081/06 and 7820/07) (Importance 3) – 17 February 2011 – Violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' close relatives, Lema Khakiyev and Musa Temergeriyev – (ii) Lack of an effective investigation – Violation of Article 3 – Mental suffering in respect of the applicants – Violation of Article 5 – Unacknowledged detention – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Judgments referring to the NHRSs

Palić v. Bosnia and Herzegovina (no. 4704/04) (Importance 2) – 15 February 2011 – The case concerned the disappearance of a military commander leading one of the local forces during the war in Bosnia and Herzegovina – No violation of Article 2, 3 or 5 – Bosnia and Herzegovina complied with its obligations under the Convention to effectively investigate a war disappearance case and paid the applicant adequate compensation

The applicant's husband was a military commander of one of the local forces (ARBH) during the war which started in Bosnia and Herzegovina in 1992. On 27 July 1995, after the opposing local forces (VRS) had taken control of that area, the applicant's husband went to negotiate the terms of surrender of his forces, and disappeared. The applicant attempted numerous times to find out about his fate from official sources, without success. Steps were taken by several national institutions to establish what had happened to the applicant's husband. **The Human Rights Chamber, a domestic human rights body set up by the 1995 Dayton Peace Agreement, concluded after a hearing that he had been a victim of enforced disappearance**. **The Chamber found a breach of the right to life, the prohibition of ill-treatment or unlawful detention of the Convention. It also ordered Republika Srpska, one of the two entities of Bosnia and Herzegovina, to immediately investigate fully the applicant's husband's disappearance, to keep his wife informed of the results of the investigation, and to either release the applicant's husband, if still alive, or hand his remains to his wife. The Chamber also awarded around 33,000 euros (EUR) for non-pecuniary damages to the applicant. The authorities of Republika Srpska paid the monetary compensation and, between 2002 and 2009, carried out a number of investigative acts in order to fully implement the Human Rights Chamber's decision**. Following in particular the setting up, work and conclusions of two ad hoc commissions between 2006 and 2009, it was established that the applicant's husband had been captured by the VRS forces, held in a military prison and then disappeared on the night of 4 September 1995. As a result, one person suspected of involvement in the applicant's husband's disappearance was handed over to the International Criminal Tribunal for former Yugoslavia, and international arrest warrants were issued in respect of two other suspects who had, in the meantime, settled in Serbia and had been given Serbian citizenship. The remains of the applicant's husband were located, exhumed and passed onto his wife.

The applicant complained that Bosnia and Herzegovina failed to investigate the disappearance and death of her husband and that she had suffered as a result for many years.

Article 2

The Court recalled that the obligation to investigate was not one of result but of means. It then observed that despite the initial delays, the investigation had finally identified the remains of the applicant's husband. That had been a significant achievement in itself, given that more than 30,000 people had gone missing during the war in Bosnia and Herzegovina. The prosecution authorities had

been independent, and although there had been some concern in relation to one of the members of one of the ad hoc investigative commissions that had not influenced the conduct of the ongoing criminal investigation. In addition, after a long and brutal war, Bosnia and Herzegovina had had to make choices in terms of priorities and resources. All that considered, since there had been no substantial period of inactivity after 2005 on the part of the national authorities, the investigation had been sufficiently prompt, independent and thorough to be considered effective for the purposes of the Convention. Accordingly, there had been no violation of Article 2.

Article 3

The Court acknowledged that disappearances of people imposed a harsh burden on their relatives who did not know what had happened to their loved ones. The national authorities had established that the applicant's husband had been a victim of a forced disappearance, had found several Convention violations, and had paid her compensation. While she had no doubt suffered and continued to suffer, the authorities' reaction to her case could not be equated with inhuman or degrading treatment. Accordingly, there had been no violation of Article 3.

Article 5

The Court found no violation of Article 5 given that the national authorities had carried out an effective investigation into the applicant's husband's disappearance. Judge Bratza and judge Vehabovic expressed a joint partly dissenting opinion.

3. 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 15 Feb. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 17 Feb. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 22 Feb. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 24 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
Bulgaria	17 Feb. 2011	Ognyan Asenov (no. 38157/04) Imp. 3	No violation of Art. 6 §§ 1 and 3 (c)	Lack of sufficient evidence to conclude that throughout the time of his imprisonment the applicant remained unable to reimburse the relatively modest fees of his counsel	Link
Finland	15 Feb. 2011	Harju (no. 56716/09) Imp. 3 Heino (no. 56720/09) Imp. 3	Violation of Art. 8	The related searches of the applicants' home/office in 2009 had been unlawful since they had been carried out without prior judicial warrant and lack of an effective judicial review of either the decision to order the searches or the manner in which they had been conducted	Link Link
Luxembourg	17 Feb. 2011	Petrovic (no. 32956/08) Imp. 3	No violation of Art. 6	The Court of Cassation had not displayed undue formalism in dismissing one of the grounds of the applicant's appeal on points of law	Link
Moldova	15 Feb. 2011	Rotaru (no. 51216/06) Imp. 3	Violation of Art. 3 Violation of Art. 13	Poor conditions of detention and lack of an effective remedy See the CPT Report to the Moldovan Government on the visit to the Republic of Moldova carried out by the CPT from 20 to 30 September 2004 and the CPT Report to the Moldovan Government on the visit to	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

				the Republic of Moldova carried out by the CPT from 14 to 24 September 2007)	
Poland	22 Feb. 2011	Raducki v. (no. 10274/08) Imp. 2	Violation of Art. 5 § 3 Article 46	Excessive length of pre-trial detention (more than five years and three months) **As in other numerous similar detention cases, the authorities did not justify the applicant's continued detention by relevant and sufficient reasons; as demonstrated by the ever increasing number of judgments in which the Court has found Poland to be in breach of Article 5 § 3 in respect of applicants involved in organised crime, the present case is not an isolated example of the imposition of unjustifiably lengthy detention but a confirmation of a practice found to be contrary to the Convention**; consequently, the Court sees no reason to diverge from its findings in *Kauczor v. Poland* as to the **existence of a structural problem** and the need for the Polish State to adopt measures to remedy the situation	Link
Romania	15 Feb. 2011	Rosca Anton Cătălin (no. 24857/03) Imp. 3	No violation of Art. 3 Violation of Art. 3	Lack of sufficient evidence to conclude that the applicant had been ill-treated during police interrogation Lack of an effective investigation into the applicant's allegations of ill-treatment	Link
Russia	17 Feb. 2011	Kononenko (no. 33780/04) Imp. 2	Violation of Art. 6 §§ 1 and 3 (d) Violation of Art. 34	The applicant had not had the opportunity to examine the key prosecution witness during the criminal proceedings Domestic authorities' failure to comply with their obligations under Article 34 by holding back the applicant's correspondence with the Court	Link
the Czech Republic	24 Feb. 2011	BENet Praha, spol. s r.o. (nos. 33908/04, 7937/05, 25249/05, 29402/05 and 33571/06) Imp. 2	No violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1 (in case n° 33571/06)	Reasonable length of the investigation into the former manager of the applicant company in view of the complexity and extent of the investigation and the fact that the alleged crime should have been committed in the context of the business activities of the applicant company Constitutional Court's failure to communicate to the applicant company the submissions of the High Prosecutor	Link
"the former Yugoslav Republic of Macedonia"	24 Feb. 2011	Čaminski v. (no. 1194/04) Imp. 3	Violation of Art. 6 § 1 (length)	Excessive length of criminal proceedings (over thirteen years at three levels of jurisdiction, of which eight years and seven months fall within the Court's temporal jurisdiction)	Link
"the former Yugoslav Republic of Macedonia"	17 Feb. 2011	Atanasov (no. 22745/06) Imp. 3	Violation of Art. 6 § 1	Infringement of the principle of equality of arms on account of the public prosecutor's presence at the Court of Appeal's session	Link
the Netherlands	22 Feb. 2011	Lalmahomed (no. 26036/08) Imp. 2	Violation of Art. 6 § 1 taken together with Art. 6 § 3 (c) (fairness)	In the leave-to-appeal proceedings, the applicant's claim that his identity had been misused had been dismissed without further	Link

				examination	
Turkey	15 Feb. 2011	Fetullah Akpolat (no. 22077/03) Imp. 3	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length) Violation of Art. 8	Excessive length of pre-trial detention (ten years and six months) Excessive length of proceedings (eleven years and three months) The prison authorities' seizure of the applicant's correspondence	Link
Turkey	15 Feb. 2011	Moghaddas (no. 46134/08) Imp. 3	Violation of Art. 5 §§ 1, 2 and 4	Unlawful detention; failure to inform the applicant about the reasons for his detention, lack of an effective remedy to challenge the lawfulness of the detention	Link

4. 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**
Bulgaria	24 Feb. 2011	Shipkov (no. 26483/04) link	Violation of Art. 5 § 3	Excessive length of detention pending trial (more than four years and three months) on charges of possessing and transporting a large quantity of drugs
Italy	15 Feb. 2011	Di Cecco (no. 28169/06) link	Violation of Art. 8	Monitoring of the applicant's correspondence by prison authorities for eleven years
Poland	15 Feb. 2011	Dyller (no. 39842/05) link	Revision	Revision decision of the judgment of 7 October 2009
Poland Turkey	15 Feb. 2011	Ściebura (no. 39412/08) link Rahman (no. 9572/05) link	No violation of Art. 5 § 3 Violation of Art. 5 § 3 Violation of Art. 6 § 1	Justified length of pre-trial detention (first case) Excessive length of pre-trial detention (four years and ten months, second case) Excessive length of proceedings (eleven years and six months, second case)
Portugal	15 Feb. 2011	Graça Pina (no. 59423/09) link	Violation of Art. 1 of Prot. 1	Lack of adequate compensation following expropriation
Portugal	22 Feb. 2011	Companhia Agrícola do Maranhão – CAMAR SA (no. 335/10) link	Violation of Art. 1 of Prot. 1	Idem.
"the former Yugoslav Republic of Macedonia"	24 Feb. 2011	Čangov (no. 14419/03) link	Violation of Art. 6 § 1	Lengthy non-enforcement of final judgments in the applicant's favour
Turkey	15 Feb. 2011	Mustafa Kemal Özdemir and Others (nos. 3724/06, 6598/06 etc.) link Okul and Karaköse (no. 37300/05) link Zeki Şimşek (no. 2409/06)	Violation of Art. 1 of Prot. 1	Deprivation of the property without adequate compensation

		link		
Turkey	15 Feb. 2011	Türkkan (no. 8774/06) link	Violation of Art. 1 of Prot. 1	Deprivation of the property, designated as forest land, without adequate compensation
Turkey	22 Feb. 2011	Arif Erdem (no. 37171/04) link	Just satisfaction	Judgment on just satisfaction due to the judgment of 23 June 2010
Turkey	22 Feb. 2011	Zeki Şahin (no. 28807/05) link	Violation of Art. 5 § 3	Excessive length of pre-trial detention (near seven years) on suspicion of belonging to an illegal organisation

5. 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	24 Feb. 2011	Delov (no. 30949/04)	Link
Bulgaria	24 Feb. 2011	Dinucci (no. 11486/04)	Link
Bulgaria	24 Feb. 2011	Georgiev and Others (no. 4551/05)	Link
Bulgaria	24 Feb. 2011	Kanchev (no. 16850/04)	Link
Bulgaria	24 Feb. 2011	Antoaneta Ivanova (no. 28899/04)	Link
Finland	15 Feb. 2011	Kalle Kangasluoma (no. 5635/09)	Link
Slovakia	15 Feb. 2011	Bubláková (no. 17763/07)	Link
Turkey	15 Feb. 2011	Akat and Kaynar (nos. 34740/04 and 2399/06)	Link
Ukraine	17 Feb. 2011	Klimenko (no. 15935/06)	Link
Ukraine	17 Feb. 2011	Revunets (no. 5144/06)	Link
Ukraine	24 Feb. 2011	Volovik (no. 17446/06)	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 7 to 20 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***
Croatia	17 Feb. 2011	Malić (no 51454/08) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
Croatia	17 Feb. 2011	Medić (no 24845/09) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil proceedings and lack of an effective remedy)	Idem.
France	08 Feb. 2011	Xo. (no 43110/08) link	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if deported from France), Art. 13 (lack of an effective remedy) and Art. 8 (risk of being separated definitely from his family if deported)	Struck out of the list (the applicant no longer wished to pursue his application)

France	15 Feb. 2011	Malon (no 13192/10) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention)	Struck out of the list (unilateral declaration of the Government)
Greece	17 Feb. 2011	Sourlas (no 46745/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (the Athens Court of Appeal allegedly lowered the amount of the compensation due to the applicant, which had already been fixed by the Court of First Instance, without providing sufficient explanation)	Inadmissible as manifestly ill-founded (the interference with the applicant's peaceful enjoyment of possessions was accompanied in the present case by sufficient procedural guarantees affording to him a reasonable opportunity of presenting his case to the relevant judicial authorities)
Italy	15 Feb. 2011	Ortu (no 37606/05) link	Alleged violation of Art. 1 of Prot. 1 (the applicants' inability to obtain adequate compensation for the damages caused by the Libyan authorities, and the Italian authorities' alleged lack of action in negotiations with the Libyan authorities), Articles 8 and 13	Partly inadmissible for non-exhaustion of domestic remedies (concerning the Italian authorities' alleged inaction), partly incompatible *ratione materiae* (concerning the remainder of the application)
Latvia	15 Feb. 2011	Ignats (no 38494/05) link	Alleged violation of Articles 6 and 13 (unfairness of proceedings and lack of an effective remedy), Art. 3 (poor conditions of detention), Art. 3 of Prot. 1 (hindrance to the applicant's right to vote in general and during local election), Art. 2 of Prot. 1 (the applicant's inability to study English, French and other languages while in detention), Art. 2 of 7 (infringement of the applicant's right of appeal in criminal matters), Articles 3, 8, 10, 13 and Art. 1 of Prot. 1	Partly adjourned (concerning the conditions of detention in Central prison and the monitoring of the applicant's correspondence with the domestic courts and the prosecutor's office), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Poland	08 Feb. 2011	Dokupil (no 10121/05) link	Alleged violation of Art. 3 (poor conditions of detention)	Struck out of the list (friendly settlement reached)
Poland	08 Feb. 2011	Buda (no 45450/04) link	Idem.	Idem.
Poland	08 Feb. 2011	Berezowski (no 6585/02) link	Idem.	Idem.
Poland	08 Feb. 2011	Miszczyński (no 23672/07) link	Idem.	Inadmissible for non-exhaustion of domestic remedies
Poland	08 Feb. 2011	Bruczyński (no 41041/06) link	Idem.	Struck out of the list (friendly settlement reached)
Poland	08 Feb. 2011	Domiszewski (no 34387/02) link	Idem.	Idem.
Poland	08 Feb. 2011	Nowacki (no 16116/04) link	Idem.	Idem.
Poland	08 Feb. 2011	Maluszczak (no 25618/03) link	Idem.	Idem.
Russia	17 Feb. 2011	Artemyeva and Others (no 12958/07; 14386/07 etc.) link	Alleged violation of Articles 6 § 1 and 1 of Prot. 1 (non-enforcement of judicial awards in the applicants' favour)	Struck out of the list (friendly settlement reached)
Russia	17 Feb. 2011	Fedorova and Shakhov (no 50537/06) link	Alleged violation of Art. 6 § 1 (outcome and excessive length of proceedings), Art. 1 of Prot. 1 (unfavourable outcome of proceedings)	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 Czech Republic	15 Feb. 2011	Koudelka (no 32416/09) link	Alleged violation of Art. 6 (excessive length of proceedings), Art. 8 (domestic authorities' alleged lack of action concerning the applicant's right of access to his daughter)	Partly inadmissible for non-exhaustion of domestic remedies (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 Czech Republic	15 Feb. 2011	Hanzl and Špadrna (no 30073/06) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 6 § 2 (alleged infringement of the principle of presumption of innocence), Art. 8 (the State's inactivity to protect the applicants' private life) and Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the unfairness of proceedings), partly incompatible *ratione materiae* (concerning claims under Art. 13), 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	15 Feb. 2011	Toner (no 8195/08) link	Alleged violation of Art. 3 of Prot. 1 (Chief Electoral Officer's refusal to include the applicant's name in the electoral register for Northern Ireland and the applicant's non-eligibility to vote in the elections to the Northern Ireland Assembly of 7 March 2007)	Inadmissible (non-respect of the six-month requirement)
Turkey	15 Feb. 2011	Altıntaş and Kutlu (no 31866/09; 31878/09) link	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil proceedings and lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Turkey	15 Feb. 2011	Onuş and Alsaç (no 67434/09) link	Alleged violation of Art. 5 (excessive length of pre-trial detention), Art. 6 (excessive length of criminal proceedings), Art. 13 (lack of an effective remedy)	Idem.
Turkey	15 Feb. 2011	Dirimeşe (no 14058/05) link	Alleged violation of Art. 6 (unfairness of proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	15 Feb. 2011	Zere (no 31223/09) link	Alleged violation of Articles 2 and 3 (alleged negligence during the applicant's medical treatment, the applicant's inability to choose her doctor in prison)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Ukraine	15 Feb. 2011	Buzko and Others (no 30680/05; 44482/06; 36704/07) link	Just satisfaction between the parties	Struck out of the list (friendly settlement reached)
Ukraine	15 Feb. 2011	Odynak (no 26782/06) link	Alleged violation of Articles 6 § 1, 13 and Art. 1 of Prot. 1 (delayed non-enforcement of a decision in the applicant's favour)	Struck out of the list (the applicant no longer wished to pursue his 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 21 February 2011: link
- on 28 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 21 February 2011 on the Court's Website and selected by the NHRS Unit

The batch of 21 February 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, Croatia, France, Greece, Moldova, Russia, Sweden, the Czech Republic, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
France	01 Feb. 2011	M. E. no 50094/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Egypt – Alleged violation of Art. 13 – Lack of an effective remedy
France	01 Feb. 2011	Mandil no 67037/09	Alleged violation of Art. 8 – Alleged interference with the applicant's right to respect for his private life on account of his conviction for refusing to be subjected to biological sampling in order to be registered in the national file of fingerprints – Has there been a violation of this provision, given the length of time the data was stored; the safeguards concerning the use and storage of the file; the nature and degree of severity of the applicant's crime?
France	01 Feb. 2011	P.I. no 37180/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Sri Lanka
Disappearance case in Chechnya			
Russia	31 Jan. 2011	Akhmetkhanova and Others no 43706/09	Alleged violation of Art. 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' relative – (ii) Lack of an effective investigation – Alleged violation of Art. 3 – Mental suffering in respect of the applicants – Alleged violation of Art. 5 – Unacknowledged detention – Alleged violation of Art. 13 in conjunction with Art. 2 – Lack of an effective remedy

Communicated cases published on 28 February 2011 on the Court's Website and selected by the NHRS Unit

The batch of 28 February 2011 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Estonia, France, Greece, Hungary, Italy, Lithuania, Montenegro, Poland, Russia, Serbia, the Czech Republic, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
Hungary	09 Feb. 2011	Szerdahelyi no 30385/07	Alleged violation of Art. 11 – Domestic authorities' refusal to allow the applicant to organise a demonstration in front of Parliament
Italy	08 Feb.	Halilovic	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if deported

	2011	no 7498/11	from Italy – Alleged violation of Art. 8 – If expelled, risk of violation of the applicant's right to respect for family life as the applicant's family resides in Italy
Poland	09 Feb. 2011	Chyżyński no 32287/09	Alleged violation of Art. 3 – Alleged ill-treatment on account of the authorities' repeated refusals to grant the applicant leave to undergo a knee operation – Alleged violation of Art. 6 § 1 – Excessive length of criminal proceedings
Russia	10 Feb. 2011	Belenko no 25435/06	Alleged violations of Art. 2 (substantive and procedural) – (i) The applicant's daughter's death was allegedly caused by medical negligence – (ii) Lack of an effective investigation – Alleged violation of Art. 3 (substantive and procedural) – (i) The applicant's daughter 's alleged ill-treatment while in the psychiatric clinic and in the hospitals, in particular having been "tied" – (ii) Lack of an effective investigation
Ukraine	07 Feb. 2011	Afanasyev no 48057/06	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment by police officers – (ii) Lack of an effective investigation – Alleged violation of Art. 6 § 1 – Alleged use by the domestic courts of evidence obtained in alleged contravention of Art. 3 – Alleged violation of Art. 6 §§ 1 and 3 (c) and (d) – Domestic courts' alleged failure to call and examine a witness; domestic court's alleged failure to hear the applicant in person; hearings held in the applicant's absence

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

Elections at the Court (26.01.2011)

The Parliamentary Assembly of the Council of Europe has elected Sérgio Pinto de Albuquerque as judge to the Court in respect of Portugal. Press Release

Part II: The execution of the judgments of the Court

A. New information

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

We invite you kindly to find below the decisions adopted during the meeting.

CM/Del/Dec(2011)1108/1E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 1 - 1 case against Azerbaijan, FATULLAYEV

CM/Del/Dec(2011)1108/2E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 2 - 1 case against Bosnia and Herzegovina, SEJDIC AND FINCI

CM/Del/Dec(2011)1108/3E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 3 - 48 cases against Germany, SURMELI group and RUMPF

CM/Del/Dec(2011)1108/4E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 4 - 4 cases against Turkey, HULKI GUNES, GOCMEN, SOYLEMEZ, ERDAL ASLAN

CM/Del/Dec(2011)1108/5E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 5 - 1 case against Turkey, ULKE

CM/Del/Dec(2011)1108/6E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 6 - 1 case against the United Kingdom, HIRST No. 2

CM/Del/Dec(2011)1108/7E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 7 - 1 case against the United Kingdom, AL-SAADOON AND MUFDHI

CM/Del/Dec(2011)1108/8E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case 8 - 6 cases against Albania (Driza and 5 other cases)

CM/Del/Dec(2011)1108/9E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 9 - 1 case against Albania, XHERAJ

CM/Del/Dec(2011)1108/10E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case 10 - 2 cases against Albania

CM/Del/Dec(2011)1108/11E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 11 - 7 cases against Azerbaijan, MIRZAYEV and 6 other cases

CM/Del/Dec(2011)1108/12E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 12 - 1 case against Belgium and Greece

CM/Del/Dec(2011)1108/13E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 13 - 1 case against Croatia ORSUS AND OTHERS

CM/Del/Dec(2011)1108/14E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 14 - 1 case against France, BOUSARRA

CM/Del/Dec(2011)1108/15E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 15 - 1 case against Georgia, KLAUS AND YURI KILADZE

CM/Del/Dec(2011)1108/16E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 16 - 2 cases against Georgia; PANDJIKIDZE AND OTHERS and GORGUILADZE

CM/Del/Dec(2011)1108/17E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 17 - 10 cases against Italy, SAADI and 10 other cases

CM/Del/Dec(2011)1108/18E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 18 - 2 cases against Italy BEN KHEMAIS and TRABELSI

CM/Del/Dec(2011)1108/19E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 19 - 1 case against Moldova, OLARU AND OTHERS

CM/Del/Dec(2011)1108/20E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 20 - 16 cases against Serbia EVT COMPANY GROUP

CM/Del/Dec(2011)1108/21E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions case No. 21 - 387 cases against Ukraine, YURIY NIKOLAYEVICH IVANOV and ZHOVNER GROUP AND 385 OTHER CASES

CM/Del/Dec(2011)1108/item1E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item 1

CM/Del/Dec(2011)1108/item1bisaE / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item 1bis a. Classification of new judgments which became final before the entry into force of the new working methods

CM/Del/Dec(2011)1108/item1biscE / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item 1bis classification of cases pending before the entry into force of the new working methods

CM/Del/Dec(2011)1108/item3E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item 3 final resolutions

CM/Del/Dec(2011)1108/item4E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item 4 - List of new judments awaiting classification

CM/Del/Dec(2011)1108/itemaE / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item a - Agenda and Order of Business

CM/Del/Dec(2011)1108/itemb1E / 11 March 2011

1108th (DH) meeting, 8 - 10 March 2011 - Decisions item b1 - Supervision of the execution of judgments of the European Court of Human Rights – Draft annual report 2010

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)

Seminar "Strengthening the protection of children's rights through the European Social Charter (revised)", Kyiv, 15 - 16 February 2011 (14.02.2011)

One of the objectives of the Joint Project between the Council of Europe and the European Union on Strengthening and Protecting Women's and Children's Rights in Ukraine is to support reforms with regard to children's rights with a view to improving the implementation of the Revised European Social Charter in the country. In fact, several obstacles to the full implementation of the Charter's requirements are apparent. Some stem from lack of appropriate social policy, and a lack of sensitivity for children's rights. This conference gave participants the opportunity to share good practices and encourage the full implementation of the Charter. **Purpose:** To promote measures aiming at respecting and protecting children's rights in line with the ESC (revised) and other relevant international instruments; To conduct a comparative analysis of the legal guarantees of children's rights; To contribute to the development of a national policy, aimed at overcoming obstacles to observing and broadening children's rights. Programme English / Ukrainian; more information on the Joint Project.

The Committee of Ministers adopts resolutions on the implementation of the European Social Charter for Conclusions 2009 and XIX-2 (16.02.2011)

At its 1106th meeting the Committee of Ministers adopted Resolution CM/ResChS(2011)3 on the implementation of the ESC (revised) and CM/ResChS (2011) 2 on the implementation of the ESC. The resolutions were adopted on the basis of abridged reports submitted by the Governmental Committee of the ESC, relating to Conclusions 2009 (Revised Social Charter) and Conclusions XIX-2 (2009) (Social Charter), covering the period 2005-2007 (concerning the provisions relating to health, social security and social protection).

The European Roma and Travellers Forum (ERTF) lodges a complaint against France (18.02.2011)

The European Roma and Travellers Forum (ERTF) has lodged a complaint against France, which was registered on 28 January 2011 as Complaint No. 64/2011. The complainant organisation claims that the French Government continues to forcibly evict Roma without providing suitable alternative accommodation. It was also alleged that the Roma in France continue to suffer discrimination in access to housing. ERTF alleges that the situation in France is not in conformity with Articles 16 (right of the family to social, legal and economic protection), 19 § 8 (guarantees concerning expulsion), 30 (right to protection against poverty and social exclusion) and 31 (right to housing) of the Revised European Social Charter, read alone or in conjunction with the non discrimination clause in Article E. Complaint No. 64/2011

Meeting in Andorra on non-accepted provisions of the Revised Charter (18.02.2011)

A meeting was held in Andorra on 18 February 2011 to allow for an exchange of views and information on the provision of the Revised Charter which have not been accepted by Andorra. Mr Luis Jimena-Quesada, President of the European Committee of Social Rights and Mr Petros Stangos, member of the Committee will participate in this meeting as well as Mr Ramon Prieto-Suarez, administrator in the Department of the ESC. Programme (French only)

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 Serbia (15.02.2011)

A delegation of the CPT carried out a visit to Serbia from 1 to 11 February 2011. The visit was carried out within the framework of the CPT's programme of periodic visits for 2011 and was the Committee's third periodic visit to Serbia. The CPT's delegation assessed progress made since the previous visit in 2007 and the extent to which the Committee's recommendations have been implemented, in particular in the areas of police custody, imprisonment and legal safeguards for patients in psychiatric institutions. The delegation also carried out a follow-up visit to Serbia's only prison hospital and to Dr Laza Lazarević Special Psychiatric Hospital in Belgrade. Further, it visited for the first time the Požarevac Correctional Institution for Women, the Special Psychiatric Hospital in Gornja Toponica and the Educational Institution for Juveniles in Niš. In the course of the visit, the delegation met Svetozar ČIPLIĆ, Minister of Human and Minority Rights, Dragan MARKOVIĆ, Secretary of State at the Ministry of Interior, Periša SIMONOVIĆ, Secretary of State at the Ministry of Health, Suzana PAUNOVIĆ, deputy Minister of Labour and Social Policy, as well as other senior officials from the Ministries of Interior, Justice, Health, and Labour and Social Policy, and from the Prosecutor's Office. **It also met Saša JANKOVIĆ, the Serbian Ombudsman and Miloš JANKOVIĆ, deputy Ombudsman for the protection of persons deprived of their liberty in Serbia**. Meetings were also held with representatives of the OSCE and UNHCR as well as with members of non-governmental organisations active in areas of concern to the CPT. At the end of the visit, the delegation presented its preliminary observations to the Serbian authorities.

Council of Europe anti-torture Committee publishes report on Malta (17.02.2011)

The CPT has published on 17 February a report on its fourth periodic visit to Malta, which took place from 19 to 26 May 2008, together with the response of the Maltese Government. Both documents have been made public at the request of the Maltese authorities. In the course of the visit, the CPT examined the treatment of persons detained by the police, irregular immigrants detained under the Immigration Act and prisoners in the Corradino Correctional Facility. It also visited several wards at the Mount Carmel Hospital as well as the Fejda Programme and Jeanne Antide establishments for female minors and juveniles. The 2008 visit report states that the majority of persons met by the CPT's delegation made no complaints of ill-treatment by police officers. The report does however refer to one specific allegation and makes recommendations concerning the treatment of vulnerable persons in police custody, the conduct of inquiries into allegations of ill-treatment and the use of electro-shock weapons by the police. Further, the right of a person detained by the police to consult in private with a lawyer was still not in force at the time of the visit. In addition to calling for this right to be applied without any further delay, the CPT also recommends that the Maltese authorities extend this right to all criminal suspects deprived of their liberty and that it include the possibility for a lawyer to be present during police interrogations. As regards foreign nationals detained under the Immigration Act, the report refers to a particular incident of alleged ill-treatment of detainees at Safi Barracks. It recommends that a criminal investigation be carried out every time credible allegations of ill-treatment by public officials are made by persons deprived of their liberty. In particular, concerns are raised about the lack of trained staff, the absence of an allocation and classification system in the prison, and the existence of informal power structures which place numerous inmates in a submissive position vis-à-vis gang-type practices and allow a considerable amount of drug trafficking to take place. The report also criticises the material conditions in several wings of the prison and makes a number of recommendations to improve the provision of health care and to put in place formal disciplinary procedures that are properly applied. Particular concern is raised in relation to the detention in the prison of children of less than 16 years of age. The two institutions for female juveniles and children, Fejda Programme and Jeanne Antide, were found to offer acceptable living conditions for relatively short stays only. A number of recommendations are made in particular aimed at improving health care provision. In the course of the visit, the delegation held consultations with Carmelo MIFSUD BONNICI, Minister for Justice and Home Affairs, and Frank MIFSUD, Permanent Secretary (Health, the Elderly and Community Care) of the Ministry for Social Policy, as well as with senior officials from both Ministries, the Malta Police Force and the Detention Service. Further, the delegation met Silvio CAMILLERI, Attorney-General, Magistrate Anthony J. VELLA, Joseph SAID PULLICINO, Ombudsman, and Carmen ZAMMIT, Commissioner for Children. Discussions were also held with representatives of the UNHCR, the Jesuit Refugee Service and Mid-Dlam ghad-Dawl. The delegation would like to highlight the assistance provided to the delegation before, during and after the visit by Joseph ELLUL, the CPT's liaison officer at the Ministry of Justice and Home Affairs.

Council of Europe anti-torture Committee publishes the Belgian Government's response to the report on the September/October 2009 visit (22.02.2011)

The CPT has published on 22 February the response of the Government of Belgium to the report on the CPT's most recent visit to that country, in September/October 2009. The response has been made public at the request of the Belgian authorities. In its response, the Belgian Government makes reference to the measures being taken to improve the situation in the light of the recommendations made by the CPT.

The text of the CPT leaflet ("The CPT in brief") has been completely revised, and is now available in English, French and 28 other languages.

C. European Commission against Racism and Intolerance (ECRI)

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

Estonia: Election of an expert to the list of experts eligible to serve on the Advisory Committee (17.02.2011)

Resolution CM/ResCMN (2011)4 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 9 February 2011: Ms Iivi Anna MASSO, in respect of Estonia."

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)

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

Council of Europe anti-trafficking monitoring body visits Bulgaria (25.02.2011)

A delegation of GRETA carried out a country visit to Bulgaria from 21 to 24 February 2011, in order to prepare its first monitoring report on the fight against human trafficking in this country. This was the seventh country visit carried out in the context of the first round of evaluation of the implementation of the *Council of Europe Convention on Action against Trafficking in Human Beings.* During the visit, the GRETA delegation held meetings with Tsvetan TSVETANOV, Deputy Prime Minister and Minister of the Interior, Milena DAMYANOVA, Deputy Minister of Education, Youth and Science, Daniela MASHEVA, Deputy Minister of Justice, Krasimir POPOV, Deputy Minister of Labour and Social Policy, Kamen SITNILSKI, Deputy Prosecutor General, Antoaneta VASSILEVA, Secretary General of the National Commission for Combating Trafficking in Human Beings, as well as with other senior officials from relevant ministries and public bodies. **It also met the Ombudsman, Konstantin PENCHEV, and members of his office**. Further, discussions were held with representatives of the International Organisation for Migration and members of non-governmental organisations active in combating trafficking in human beings and human rights protection. In addition, the GRETA delegation visited accommodation facilities for victims of trafficking in Sofia and Varna. The visit was carried out by Mr Valdimir GILCA and Ms Hanne Sophie GREVE, members of GRETA, who were accompanied by Ms Petya NESTOROVA, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings. On the basis of the information gathered during the visit and the Bulgarian authorities' reply to the questionnaire, GRETA will prepare a draft report containing its analysis of the implementation of the Convention by Bulgaria, as well as suggestions for possible improvements and further action. This draft report shall be transmitted to the Bulgarian Government for comments before GRETA prepares its final report, which will be made public along with eventual comments by the Government.

* 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

18 February 2011

Norway approved the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (CETS No. 208).

25 February 2011

Austria ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

B. Recommendations and Resolutions adopted by the Committee of Ministers on 16 February 2011 at the 1106th meeting of the Ministers' Deputies

CM/ResChS(2011)2E / 16 February 2011: Resolution on the implementation of the European Social Charter (Conclusions XIX-2 (2009), provisions related to health, social security and social protection)

CM/ResChS(2011)3E / 16 February 2011: Resolution on the implementation of the European Social Charter (revised) (Conclusions 2009, provisions related to health, social security and social protection)

CM/Res(2011)3E / 16 February 2011: Resolution amending Article 17 of the Staff Regulations and Articles 21 bis and 24 of the Regulations on Appointments (Appendix II to the Staff Regulations)

CM/Res(2011)4E / 16 February 2011: Resolution amending Articles 7, 9 and 11 of the Regulations governing staff salaries and allowances (Appendix IV to the Staff Regulations)

C. Other news of the Committee of Ministers

Istanbul: human rights dimensions of migration in Europe (15.02.2011)

"Protecting the human rights of immigrants, asylum seekers and refugees while managing migration flows is one of the greatest challenges which Europe currently faces" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, as he announced a Seminar on the "Human rights dimensions of migration in Europe". The Seminar was organised in Istanbul on 17-18 February by the Turkish Chairmanship of the Committee of Ministers and the Commissioner. It allowed an exchange of 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

Minister Davutoglu and Secretary General Jagland on mission to Tunisia (17.02.2011)

Minister Ahmet Davutoglu, Chairman of the Committee of Ministers and Minister for Foreign Affairs of Turkey, and the Secretary General, Thorbjørn Jagland, have paid an official visit to Tunisia. They have met with Prime Minister Mohammed Ghannouchi, and with the President of the High Council in charge of Political Reform, Iyadh Ben Achour. The meetings with the highest Tunisian authorities explored the possibilities of co-operation that the Council of Europe could offer to Tunisia. In the framework of the process of democratisation, the focus of the discussion has been on constitutional reform and forthcoming elections.

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*

Arrivals in Lampedusa: all of Europe is concerned, says PACE President (14.02.2011)

Mevlüt Çavusoglu, the President of PACE, has expressed concern at the arrival by sea of thousands of Tunisians on the island of Lampedusa in Italy. “History has a tendency to repeat itself on Lampedusa. The authorities must handle these arrivals with the necessary care, as those in need of protection must receive it,” he said. “Notwithstanding the need for action, there must be no mass expulsion.” “It is necessary to understand why these persons are leaving and to tackle the causes, including the criminal networks which are exploiting the uncertainties in Tunisia,” the President added. He called on the Italian authorities to fully involve the UNHCR, the IOM, the Red Cross and others to help deal with the urgent situation on Lampedusa. “But it is also absolutely necessary that Europe share the responsibility for these people. Today it is Italy taking the brunt. Tomorrow it could be Malta, next week it could be Greece, in a year Turkey. All of Europe is concerned.” “In this context, the EU Agency Frontex has an important role to play, but it must abide by all the maritime and human rights provisions applying to rescue and interception at sea.” PACE Resolution 1637 (2008) on Europe’s boat people: mixed migration flows by sea into southern Europe

Tatarstan an example of multinational and multi-religious coexistence (14.02.2011)

“The Republic of Tatarstan (Russian Federation) can serve as an example of tolerance and peaceful and prosperous coexistence of cultures and religions for the whole region”, said Mevlüt Çavusoglu, the President of PACE, speaking at the end of a two-day visit to the Republic’s capital Kazan (11-12 February 2011). He expressed his appreciation to the President of the Republic and its leadership for their efforts to develop and preserve the cultures and traditions of about 115 nationalities and ethnic groups. At the same time Tatarstan, with its system of broad autonomy, can also be a model for organising relations between the federal center and autonomous entities, Mr Çavusoglu said. The President recalled that the Assembly is due to hold a major debate on the religious dimension of intercultural dialogue during its April plenary session. During his visit Mr Çavusoglu met the President of the Republic of Tatarstan Rustam Minnikhanov, the Chairman of the Council of Ministers Ildar Khalikov, members of the State Council, representatives of political parties and national and cultural associations in the Republic, religious leaders and students at the University of Kazan.

Germany makes voluntary contribution to the Parliamentary Assembly to stop sexual violence against children (16.02.2011)

The Ministry of Foreign Affairs of Germany has made a voluntary contribution of close to 100 000 Euros to the Parliamentary Assembly to be devoted to the parliamentary dimension of the Council of Europe “One in Five” campaign to stop sexual violence against children. The main objectives of this year’s parliamentary campaign activities are to raise awareness of the issues surrounding sexual abuse and exploitation of children in Council of Europe member States and to promote relevant legislative and political action to combat these crimes and help the victims. The funds will help the Parliamentary Assembly to actively contribute to the campaign through its network of contact parliamentarians inaugurated in January 2011 and to organise an external event on the occasion of the third meeting of contact parliamentarians in May. The agreement was signed on 16 February 2011 by Ambassador Dieter Heumann, Permanent Representative of Germany to the Council of Europe,

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

and by Wojciech Sawicki, Secretary General of the Parliamentary Assembly. Parliamentary dimension website.

Post-monitoring visit to Monaco: reforms in many areas still outstanding, according to the rapporteur (23.02.2011)

“In spite of some progress, reforms in many areas are still outstanding,” said Anne Brasseur (Luxembourg, ALDE) following her post-monitoring visit to the Principality of Monaco on 21 and 22 February 2011. “I was pleased to note the major progress made in the areas of justice and of combating money-laundering. However, the reform of the judiciary and the revision of the Penal Code and the Code of Criminal Procedure still have to follow. The law on the operation of the National Council and its rules of procedure in accordance with the provisions of the 2002 Constitution need to be adopted as quickly as possible, as that is a vital reform for strengthening the National Council and enabling it to play its role to the full,” added Ms Brasseur. “I welcome the government’s declared intention to ratify the Council of Europe Convention on Cybercrime in the near future. The ratification of Protocols Nos. 1 and 12 to the European Convention on Human Rights and of the Revised Social Charter seems to be posing problems, however. I urge the Monegasque authorities to draw on the Council of Europe’s expertise to find suitable solutions which take account both of the specific features of Monaco and of compliance with its obligations and commitments as a constitutional monarchy which has been a member of the Council of Europe since 2004. I strongly urge the National Council to be involved in ratification of these conventions, in accordance with Article 14 of the Constitution,” said the rapporteur. During her visit, Ms Brasseur met the Head of State HSH Prince Albert II, the President of the National Council Jean-François Robillon, the Minister of State HE Michel Roger, and the members of the government, representatives of political parties with seats in the National Council, the Monaco delegation to PACE and representatives of the local and judicial authorities, civil society and the trade unions, as well as a number of socio-economic and financial bodies. PACE Resolution 1690 (2009) on the honouring of obligations and commitments by Monaco

- *Themes*

The religious dimension of intercultural dialogue (18.02.2011)

“Cultural and religious diversity has become a source of anxiety, fear and tension in Europe, and even more outside the continent. Divisions have sprung up, which seem to have been exacerbated, amongst other things, by the different visions of society offered by each religion. We are confronted almost daily with problems of understanding and more and more instances of intolerance, rejection and violence, which destroy social cohesion and even stability and peace,” said Anne Brasseur (Luxembourg ALDE) at a hearing held in Paris by the Culture Committee, to provide input for a report to be prepared on the religious dimension of intercultural dialogue. “Not only believers but also atheists, agnostics, sceptics and the unconcerned must be able to identify with the values that unite us at the Council of Europe. Pluralism, tolerance and broadmindedness are the cardinal values of all democracies. Enshrined as it is in the European Convention on Human Rights, freedom of thought, conscience and religion is one of the foundations of our democratic societies, alongside freedom of expression,” added Ms Brasseur. In Ms Brasseur’s view, a structured, permanent Council of Europe mechanism for interfaith dialogue, measures to promote education on religions and the incorporation of interfaith dialogue into teacher training would be effective means of fostering religious pluralism. The hearing was attended by about forty people, including parliamentarians, experts and representatives of various religious authorities. Ms Brasseur’s report is due for discussion on 12 April at the spring session of the Parliamentary Assembly. Announcement of the hearing

PACE President strongly condemns indiscriminate and excessive use of force in Libya (25.02.2011)

Mevlüt Çavusoglu, the President of PACE, has strongly condemned the indiscriminate and excessive use of force by the authorities in Libya, and demanded that the human rights of everyone in the country be fully respected. Following meetings in New York with the UN Representatives of several Council of Europe member and observer States, the President said the current situation in the country was deeply disturbing. "I sincerely hope that these tragic events will lead to the beginning of a meaningful democratic process in Libya, and a genuine political dialogue between the different forces in the country." "Democracy on both sides of the Mediterranean is in the interest of all our peoples, and essential for the long-term security and stability of the region," he added.

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

A. Country work

Albania: political forces must co-operate with the General Prosecutor's investigation into the violence at the 21 January demonstration in Tirana (22.02.2011)

"There is a need for a thorough, impartial and credible investigation into the human rights violations which took place in Tirana on 21 January" said Commissioner Thomas Hammarberg on 22 February when publishing a special report following a three-day visit to Albania. He had assessed the human rights aspects of developments during a demonstration at which four demonstrators were shot dead and a number of policemen and demonstrators were injured. "It is necessary that those responsible for these violent acts be held to account. This is crucial both to establish justice and to prevent violence in connection with demonstrations and political protests in the future", the Commissioner stated. Read the report

Hungary should use the Council of Europe's standards to guarantee freedom of expression and media pluralism (25.02.2011)

"Hungarian media must be able to perform their role as watchdog in a pluralistic democratic society. In order to achieve this, Hungary should abide by its commitments as a member State of the Council of Europe and make the most of the organisation's expertise in the fields of freedom of expression and media independence and pluralism," said Commissioner Hammarberg on 25 February as he published his Opinion entitled "*Hungary's media legislation in light of Council of Europe standards on freedom of the media*". The Opinion follows the Commissioner's visit to Budapest on 27-28 January 2011, during which he held extensive discussions on the 'media law package' introduced by the Hungarian authorities between June and December 2010, and which is now in force. Read the Opinion on Hungary's media legislation in light of Council of Europe standards on freedom of the media

B. Thematic work

Seminar on human rights dimensions of migration in Europe (15.02.2011)

"Protecting the human rights of immigrants, asylum seekers and refugees while managing migration flows, is one of the greatest challenges which Europe currently faces. A sustainable policy to address these challenges should entail a more humane approach to the need to protect migrants and foster integration" said on 15 February the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, announcing a Seminar on the "Human rights dimensions of migration in Europe". The Seminar was organised in Istanbul on 17-18 February by the Commissioner and the Turkish Chairmanship of the Council of Europe Committee of Ministers. Read the speech; Thematic page on human rights of immigrants, refugees and asylum seekers

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)

Mats Lindberg took office on 14 February 2011 as the new Head of the NHRS Unit in the National Human Rights Structures, Prisons and Police Division headed by Markus Jaeger. As such, Mats is now the Project Manager of the Peer-to-Peer II Project, Markus the Project Superviser, Jolanta Delcourt the Project Assistant.

Francesca Gordon (from Silvia Casale Consultants) remains the Project Manager of the European NPM Project (a branch of the Peer-to-Peer II Project, which branch is co-funded by the Council of Europe's Human Rights Trust Fund - HRTF), to which Silvia Casale (from Silvia Casale Consultants) is the Project Adviser. Natia Jgenti works with Mats as Project Officer in the NHRS Unit, Sonya Folca and Ekaterina Kirilenko as Project Assistants.