

DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS  
LEGAL AND HUMAN RIGHTS CAPACITY BUILDING DEPARTMENT  
NATIONAL HUMAN RIGHTS STRUCTURES  
PRISONS AND POLICE DIVISION



**NATIONAL HUMAN RIGHTS STRUCTURES UNIT**

Strasbourg, 15 April 2011

**Regular Selective Information Flow  
(RSIF)  
for the attention of the National Human Rights Structures (NHRs)  
Issue n°60  
covering the period from 28 February to 13 March 2011**

Council of Europe  European Union  
Conseil de l'Europe  Union européenne

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

**Joint European Union – Council of Europe Programme**

*The **selection** of the information contained in this Issue and deemed relevant to NHRs  
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 NHRSSs 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 NHRSSs. A particular effort is made to render the selection as targeted and short as possible.

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

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

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

We invite you to read the [INFORMATION NOTE No. 138](#) (provisional version) on the Court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases which the Jurisconsult, the Section Registrars and the Head of the aforementioned Division examined in February 2011 and sorted out as being of particular interest

### A. Judgments

#### 1. Judgments deemed of particular interest to NHRs

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 NHRs. 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 NHR 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**

[Lăpușan and Others v. Romania](#) (nos. 29007/06, 30552/06, 31323/06, 31920/06, 34485/06, 38960/06, 38996/06, 39027/06 and 39067/06) (Importance 2) – 8 March 2011 – Violation of Article 2 (procedural) – Lack of an effective investigation into the repression of anti-communist demonstrations in Cluj-Napoca in 1989

The first six applicants were seriously injured in protest demonstrations against the communist regime in December 1989 in Cluj-Napoca. The last three are close relatives of people who were killed during those demonstrations. In January 1990 the Cluj-Napoca military prosecutor's office opened an investigation into the repression of the demonstrations, in which 26 people were killed and 52 suffered bullet wounds. In October 1992 the prosecution dropped the case against the persons suspected of having organised the repression. That decision was set aside by the Military Prosecutors' Office of the Supreme Court of Justice, which ordered the resumption of the investigation. From 1997 to 2003 the case was pending before the Supreme Court, where it was adjourned on several occasions, when witnesses failed to attend hearings, changes were made to the rules of procedure, new evidence was submitted and, several times, because the investigation file was missing. The Supreme Court pronounced judgment on 9 April 2003, acquitting two of the accused and sentencing a third to five years' imprisonment for murder and attempted murder. All parties appealed against that judgment before a three-judge panel of the High Court of Cassation. The proceedings continued, with new adjournments, until a judgment of 23 May 2005 pronounced harsher civil and criminal penalties. That judgment gave rise to appeals to a Chamber of nine judges of the High Court which, in a judgment of

March 2006, upheld the 2005 judgment. The Ministry of Defence paid the applicants the sums awarded.

The applicants complained that the criminal investigation into the events of December 1989 in Cluj-Napoca had been ineffective.

The Court reiterated that a State could be considered to honour its obligations under Article 2 only if the protection of the right to life afforded by domestic law operated effectively. That implied a requirement that the investigation and the proceedings should be handled promptly in circumstances such as those found in the applicants' case. In this case, after June 1994 (when the Convention came into force in respect of Romania) the proceedings had lasted almost another 12 years. They had been marked by repeated adjournments and lengthy delays between hearings which procedural rules alone could not justify. In particular, the inactivity of the prosecution and the delays accumulated at first instance made a decisive contribution to the protracted duration of the proceedings as a whole. While acknowledging the complexity of the case, the Court considered that its importance for Romanian society should have prompted the authorities to handle it more expeditiously, in order to avoid any appearance of collusion in or tolerance of unlawful acts. As the authorities had not acted with the diligence required under Article 2, there had been a violation of that provision. Under Article 41, the Court held that Romania was to pay 10,000 euros (EUR) each to the applicants Lăpușan, Borțig, Lung, Nițu and Incelean in respect of non-pecuniary damage, and EUR 750 each to Mr Lung and Mr Lăpușan and EUR 660 to Mr Incelean for costs and expenses.

- **Right to a fair trial**

**Lacerda Gouveia and Others v. Portugal (no. 11868/07) (Importance 2) – 1 March 2011 – No violation of Article 6 § 1 – The applicants' right of access to a court had not been impaired by any negligence or failure to act on the part of the competent authorities, concerning the determination of their civil rights**

The case concerned the criminal proceedings following the plane crash of 4 December 1980 in the Lisbon suburb of Camarate in which the Prime Minister, Mr Sá Carneiro, and the Minister of Defence, Mr Amaro da Costa, lost their lives. The investigation by the directorate-general for civil aviation concluded that the crash had been an accident. The final police report in 1981 ruled out any criminal act. On two occasions, in 1990 and 1991, the prosecuting authorities, after examining the conclusions of parliamentary commissions of inquiry, decided to discontinue the criminal proceedings. In 1995 the public prosecutor decided to re-open the proceedings. The applicants, three of whom had applied to join the proceedings as assistants of the prosecuting authority (assistentes), commenced a private prosecution against four individuals, including L.R. and J.E., whom they accused of organising and carrying out a criminal attack on the Prime Minister and the Minister of Defence. In an order issued in 1996 the prosecution was declared time-barred. However, the order did not concern L.R. who, according to the applicants, was still being detained in Brazil in connection with another set of proceedings. The criminal proceedings against L.R. could therefore be continued, as the 15-year limitation period was suspended. In 1998 the judge of the Loures District Court discontinued the proceedings, reaffirming that the case file suggested that the crash had been an accident rather than a criminal act. In June 2000 the Court of Appeal upheld the decision to discontinue the proceedings after examining all the evidence. In 2001 a request to have the case re-opened was lodged by the applicants was refused on the ground that the Court of Appeal judgment had terminated the proceedings. The applicants appealed unsuccessfully, the Court of Appeal ruling that the proceedings were in any case time-barred. The Supreme Court dismissed an appeal on points of law by the applicants in May 2006 and refused a subsequent request for clarification.

The applicants complained of a lack of diligence on the part of the Portuguese authorities, which in their view was the reason why the prosecution had been declared time-barred. They further complained of the omission of certain evidence during the proceedings and of the failure to assess some of the evidence properly.

The Court noted that the applicants had joined the criminal proceedings in question as assistentes and had not unequivocally waived their civil rights. Article 6 § 1 was therefore applicable in their case in so far as it concerned the issue of whether their right of access to a court for determination of their civil rights had been infringed because the prosecution had been declared time-barred. The applicants did not dispute the time-limits for prosecution as such, but complained of omissions on the part of the prosecuting authorities and other judicial authorities in failing to act on their requests, and in particular on the request to commit for trial the individuals against whom they had brought a private prosecution. The Court had to ascertain whether the decisions taken by the competent authorities amounted to "negligence". The Court noted that while the length of the proceedings (25 years) might appear excessive at first sight, it was readily explained by the considerable complexity of the case. A huge

number of procedural steps and forensic examinations had been carried out and numerous witnesses and experts had given evidence. There had been no substantial delays at the various stages of the proceedings which could be attributed to the authorities, who had granted the vast majority of the applicants' requests. The three decisions discontinuing the proceedings had all been upheld by the courts dealing with the case and the decisions to re-open the case had been taken following examination of the reports of the parliamentary commissions of inquiry, which had not altered the courts' conclusions. Hence, there was no appearance of negligence on the part of the authorities. Furthermore, at least in the case of one applicant, when the Lisbon Court of Appeal had upheld the order discontinuing the proceedings in June 2000, the time-limit for prosecution had not yet expired. The Court of Appeal had held, in a detailed 803-page ruling for which ample reasons had been given, that there was no evidence of any criminal act; moreover, at the time the prosecution became time-barred several courts had already ruled that the criminal proceedings should be discontinued. While the Court understood the applicants' distress, it held that the substance of their right of access to a court had not been impaired by any negligence or failure to act on the part of the competent authorities.

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

**Kiyutin v. Russia (no. 2700/10) (Importance 1) – 10 March 2011 – Violation of Article 14 taken in conjunction with Article 8 – Domestic authorities' refusal to grant the applicant, a Uzbek national, a residence permit because he tested positive for HIV, amounted to discrimination**

The applicant, a national of Uzbekistan, married a Russian national in July 2003 and had a daughter with her the following year. The applicant applied for a residence permit and was asked to undergo a medical examination during which he tested positive for HIV. His application for residence was refused by reference to a legal provision preventing the issuing of a residence permit to HIV-positive foreigners. He challenged the refusal in court, claiming that the authorities should have taken into account his state of health and his family ties in Russia. The Russian courts rejected his appeals.

The applicant complained that the refusal to grant him a residence permit had disrupted his family life. The Court decided to examine the case under Article 14 taken in conjunction with Article 8.

The Court noted that the right of a foreigner to enter or settle in a given country was not guaranteed by the Convention. Whereas the applicant had been lawfully married in Russia, there was no obligation under the Convention to respect the choice of married couples as to where lived. However, since he had established a family in Russia, his situation had to be considered under Article 8 and Russia was under a legal obligation to exercise immigration control in a non-discriminatory manner. Being the spouse of a Russian national and the father of a Russian child, the applicant had been in an analogous situation to that of other foreign nationals seeking to obtain a family-based residence permit in Russia. He had been treated differently because of a legal provision, which provided that any application for a residence permit had to be refused if the foreigner could not show that he or she was not HIV-positive. The Court emphasised that people living with HIV represented a vulnerable group in society which had been discriminated against in many ways in the past, be it due to common misconceptions about the spreading of the disease, or to prejudices linked to the way of life believed to be at its origin. Consequently, if a restriction on fundamental rights applied to such a particularly vulnerable group, then the State's margin of appreciation was substantially narrower and there had to be very weighty reasons for the restrictions in question. Only six out of the 47 member States of the Council of Europe required negative HIV results as a pre-condition for granting a residence permit. Only three European States provided for deportation of foreigners who were HIV-positive. Consequently, the exclusion of HIV-positive people from residence did not reflect an established European consensus on the issue. The mere presence of an HIV-positive individual in the country was not in itself a threat to public health. In addition, HIV-related travel restrictions were not imposed on tourists or short-term visitors, nor on Russian nationals leaving and returning to Russia. The Court then observed that, while potentially there could be a risk of HIV-positive foreigners becoming a serious financial burden on the public health-care system, that was not a valid consideration in the applicant's case, given that in Russia, non-Russian nationals had to pay themselves for all medical services. The Court finally noted that the exclusion of residence of foreigners who were HIV-positive was explicitly provided for in a blanket and indiscriminate fashion in Russian law, which also envisaged the deportation of non-nationals who had been found to be HIV-positive. There was no room for an individualised assessment based on the facts of a particular case and the domestic migration authorities and courts did not consider themselves bound by the Constitutional Court's conclusion that temporary residence permits could be issued on humanitarian grounds. The Court held that the applicant had been a victim of discrimination on account of his health status, in violation of Article 14 taken together with Article 8. Under Article 41, the Court held that Russia was to pay the applicant 15,000 euros (EUR) in respect of pecuniary damage, EUR 350 for costs and expenses.

- **Protection of property**

**Šekerović and Pašalić v. Bosnia and Herzegovina (nos. 5920/04 and 67396/09) (Importance 1) – 8 March 2011 – Violation of Article 6 and Article 1 of Protocol No 1 – Domestic authorities’ failure to eliminate discrimination concerning the pension rights of internally-displaced people following their return from Republika Srpska to the Federation of Bosnia and Herzegovina after the war – Violation of Article 14 in conjunction with Article 1 of Protocol No 1 (second applicant) – Discrimination towards someone who had returned from the Republika Srpska to the Federation compared to pensioners who had remained in the Federation during the war – Article 46 – The Court held that Bosnia and Herzegovina had to amend its legislation so that pensioners who had returned to the Federation of Bosnia and Herzegovina following the war in the former Yugoslavia would become eligible to apply for a Federation pension**

The first applicant was granted an old-age pension in 1984 and the second applicant in 1981, when both of them lived in what is today the Federation of Bosnia and Herzegovina (the Federation), one of the entities of Bosnia and Herzegovina. In 1992, they moved to the Republika Srpska, where they received their pensions from the Republika Srpska Pension Fund (RS Fund). The applicants returned to the Federation in 2000 and 2001 respectively and sought, unsuccessfully, to receive their pensions from the Federation Pension Fund. Pensions paid by the latter were higher than those paid by the RS Fund. They both applied before the Human Rights Chamber (the Chamber), a domestic human rights body which ceased to exist in 2003. The Chamber delivered a landmark decision in which it found that it was discriminatory for people who had moved to the Federation after the war to receive their pensions from the RS Fund rather than the Federation. It ordered the Federation to end such discrimination against the applicants and to compensate them for the difference between the pensions in the two entities. The first applicant’s case was decided in a similar way by the Constitutional Court of Bosnia and Herzegovina in June 2007, after the Chamber ceased to exist. The applicants were compensated by the Federation Pension Fund in 2010 and in 2007 respectively for the difference between the amounts they had actually received from the RS Fund and that they would have received from the Federation Pension Fund during the period after they applied to the Chamber. In October 2010, the Constitutional Court held that its decision in the first applicant’s case had not been enforced because he had not yet been granted the Federation pension.

The applicants complained that the judgments delivered in their favour had not been enforced.

Article 6 and Article 1 of Protocol No 1

The Court recalled that in the case of *Karanovic v. Bosnia and Herzegovina*, it had decided that the enforcement of a similar domestic decision required the applicant’s pension entitlement to be transferred from the RS Fund to the Federation Pension Fund. In addition, the Constitutional Court had held that the first applicant should have been granted a Federation pension. The Court saw no reason to depart from the *Karanovic* findings and found a violation of Article 6 and Article 1 of Protocol No 1.

Article 14

The Court observed that the domestic Human Rights Chamber had found in the case of the second applicant that, as someone who had returned from the Republika Srpska to the Federation, she had been discriminated against, compared to pensioners who had remained in the Federation during the war. The Court saw no reason to depart from that ruling. Having had regard to its finding that the measures indicated in the domestic decision delivered in respect of the second applicant had not been implemented, the Court found that she continued to be discriminated against solely on account of her status as an internally-displaced person, in violation of Article 14.

Article 46 (execution of the Court’s judgments)

The Court noted that, after the *Karanovic* judgment, Bosnia and Herzegovina had enforced four other decisions concerning 19 people. In addition, more than 3,500 people were in a similar situation. That meant that, potentially, there was a large number of applicants who could turn to the Court with similar requests. Given the threat that this situation represented to the future effectiveness of the Court, it held that Bosnia and Herzegovina had to amend its legislation so that the applicants and others in that situation would become eligible to apply for a Federation pension if they so wished. It gave Bosnia and Herzegovina six months from the moment when this judgment became final to change its legislation.

Article 41 (just satisfaction)

Under Article 41, the Court held that Bosnia and Herzegovina was to pay the second applicant 5,000 euros (EUR) in respect of non-pecuniary damage.



**Klein v. Austria (no. 57028/00) (Importance 3) – 3 March 2011 – Violation of Article 1 of Protocol No. 1 – Domestic authorities’ failure to struck a fair balance between the competing interests at stake, concerning the applicant’s entitlement to a pension, after having contributed to the pension scheme during his entire career**

Admitted to the bar in 1964, the applicant lost his right to practice as a lawyer in January 1996 by a decision of the Executive Committee of the Vienna Chamber of Lawyers after bankruptcy proceeding had been opened against him. In August 1997, the applicant applied to the Chamber of Lawyers, asking to be granted an old-age pension and referring to the fact that he had practised law between 1964 and 1995. The Chamber’s Executive Committee dismissed the application, finding that under the relevant provisions of the statute of its pension fund, the applicant was not entitled to a pension, given that he had lost his right to practise as a lawyer, and thus was no longer a member of the Chamber of Lawyers, before reaching 65, the age of retirement. The applicant’s complaint against that decision was dismissed by the Administrative Court, which held that, being no longer enrolled in the List of Lawyers of the Austrian Chamber of Lawyers at the time he reached the retirement age, he had no right to an old-age pension. The pension scheme for lawyers in Austria is financed by compulsory contributions from the members of the pension fund. As an additional source of income, the State pays an annual lump sum, divided among the pension funds of the regional Chambers of Lawyers, as compensation for the mandatory services rendered by lawyers in the context of legal aid, for which they do not receive individual payments.

The applicant complained that the refusal to grant him an old-age pension from the pension fund, even though he had paid contributions to that fund throughout his career as a lawyer, had violated his property rights and had been arbitrary.

The Court considered that the affiliation with an old-age pension scheme, based on the compulsory membership of a professional organisation during the exercise of a profession, might give rise to the legitimate expectation to receive pension benefits at the point of retirement and thus constituted a possession within the meaning of Article 1 of Protocol No. 1. Given the compulsory nature of the affiliation to the Chamber of Lawyers pension scheme and the compulsory contributions to it, that scheme was clearly intended to give lawyers reaching the retirement age a pension which largely corresponded to the cover provided under the State social security scheme. A lawyer could therefore not be expected to subscribe to an additional pension scheme under the social security system to protect himself against the complete loss of his pension in case he lost the right to exercise his profession. The Court further noted that the Austrian pension scheme for lawyers had been amended in 2003, so that lawyers no longer had to be on the List of Lawyers at the time of reaching retirement age in order to be entitled to an old-age pension, which showed that that condition was no longer considered appropriate. When it came to a compulsory scheme, regulations had to take into account exceptional situations like the applicant’s. By completely depriving him of his entitlement to a pension, after having contributed to the pension scheme during his entire career both individually and collectively, by rendering services in the context of legal aid, no fair balance was struck between the competing interests. There had accordingly been a breach of Article 1 of Protocol No. 1.

**Vistiņš and Perepjolkins v. Latvia (no. 71243/01) (Importance 2) – 8 March 2011 – No violation of Article 1 of Protocol 1 – The expropriation of the land belonging to the applicants had been conducted subject to legal conditions, in the public interest and a fair balance was struck between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights – No violation of Article 14 – The Court considered that the difference in the way the applicants had been treated had had an objective and reasonable justification**

The case concerned the expropriation of large plots of land in the middle of the 1990s as part of the enlargement of the Autonomous Commercial Port of Riga. This expropriation was based on a special law creating an exception to the ordinary rules governing expropriation.

The applicants complained about the conditions in which their land had been expropriated, arguing, in particular, that they had been deprived of their property in breach of national law. They also complained that they had been discriminated against on the ground of their “property”.

**Article 1 of Protocol No. 1**

The Court had to satisfy itself that the expropriation met three essential requirements. Firstly, the expropriation had to have been conducted "subject to the conditions provided for by law". Secondly, the expropriation must have been “in the public interest”. Thirdly, a “fair balance” must have been struck between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights – which in the applicants’ case concerned the amount of expropriation compensation. The Court was satisfied that this was the case here. The Court further

noted that the applicants had acquired the land in question free of charge and had owned it for only three years, without making any investments or paying any related taxes. The Latvian authorities had therefore been justified in not reimbursing the applicants for the full market value of the expropriated assets. The Court also noted that the applicants had received about EUR 85,000 and EUR 593,150 in respect of rent arrears for their land. Although those sums had been paid on a legal basis that was completely distinct from the expropriation, it remained the case that they had profited from a “windfall effect” and, if the situation was considered as a whole, the amounts paid in respect of compensation did not appear disproportionate. The Court further noted that the applicants had enjoyed sufficient procedural guarantees and that this case was comparable to that of 23 plots of land occupied by Riga airport, which had been previously been expropriated in the same way. The Court concluded, by six votes to one, that there had been no violation of Article 1 of Protocol No. 1.

#### Article 14

The Court recalled that discrimination means treating differently, without an objective and reasonable justification, people in relevantly similar situations. The Court entertained serious doubts that the situation in which the applicants found themselves was comparable to that of other owners of immovable property. Even had it been, given the public interest pursued by the expropriation and the margin of appreciation enjoyed by Latvia on account of the denationalisation process, the Court considered that the difference in the way the applicants had been treated had had an objective and reasonable justification. The Court therefore concluded, unanimously, that there had been no violation of Article 14. Judge Casadevall expressed a separate opinion.

- **Disappearance case in Chechnya**

[Khambulatova v. Russia](#) (no. 33488/04) (Importance 3) – 3 March 2011 – No violation of Article 2 (substantive) – The Court could not conclude beyond reasonable doubt that the authorities were to be held responsible for the death of the applicant’s son – Violation of Article 2 (procedural) – Lack of an effective investigation into the death of the applicant’s son – Violation of Article 3 (substantive) – Ill-treatment of the applicant’s son – No violation of Article 34 – Lack of sufficient evidence to conclude that the applicant’s right of individual petition had been infringed

## **2. Other judgments issued in the period under observation**

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

- Press release by the Registrar concerning the Chamber judgments issued on 01 Mar. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 03 Mar. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 08 Mar. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 10 Mar. 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.

<u>State</u>	<u>Date</u>	<u>Case Title and Importance of the case</u>	<u>Conclusion</u>	<u>Key Words</u>	<u>Link to the case</u>
Belgium	01 Mar. 2011	Faniel (no. 11892/08) Imp. 2	Violation of Art. 6 § 1 (fairness)	Lack of access to a court, as the applicant had not been duly informed of the relevant formalities and time-limits in order to lodge an appeal against his judgment	<a href="#">Link</a>
Bulgaria	08 Mar. 2011	Goranova-Karaeneva. (no. 12739/05) Imp. 3	No violation of Art. 8  Violation of Art. 13	The tapping of the applicant’s conversations in connection with the criminal proceedings brought against her, had been “necessary in a democratic society” Lack of an effective remedy	<a href="#">Link</a>
Lithuania	01 Mar. 2011	Lalas (no. 13109/04) Imp. 3	Violation of Art. 6 § 1 (fairness)	Domestic courts’ failure to adequately address the applicant’s plea of incitement	<a href="#">Link</a>

\* The “Key Words” in the various tables of the RSIF are elaborated under the sole responsibility of the NHRS Unit of the DG-HL

Poland	01 Mar. 2011	Welke and Białek (no. 15924/05) Imp. 2	No violation of Art. 6 §§ 1 and 3	Fairness of criminal proceedings on account of the Court of Appeal's indication of the possibility of putting before the Constitutional Court the issue of the alleged limitations on the rights of the defence flowing from the use of classified information in the case and the resultant restrictions on access to the file	<a href="#">Link</a>
Romania	08 Mar. 2011	The Arges College of Legal Advisers (no. 2162/05) Imp. 3	Violation of Art. 11	Domestic authorities' failure to provide sufficient reasons for their refusal to register the applicant as an association	<a href="#">Link</a>
Russia	03 Mar. 2011	Elmuratov (no. 66317/09) Imp. 3	No violation of Art. 3  Violation of Art. 5 §§ 1 and 4	Lack of sufficient evidence to conclude the applicant would risk ill-treatment if extradited to Uzbekistan  Unlawful detention pending extradition and lack of any procedure for the judicial review of its lawfulness	<a href="#">Link</a>
Russia	03 Mar. 2011	Kuptsov and Kuptsova (no. 6110/03) Imp. 3	Violation of Art. 3 (first applicant)  Violation of Art. 5 § 1 Violation of Art. 5 § 3  Two violations of Art. 5 § 4  No violation of Art. 5 § 4 Violation of Art. 6 § 1 (fairness)	Poor conditions of detention in Krasnoarmeyskiy District police station Unlawfulness of detention Hindrances to the applicant's right to "trial within a reasonable time" Infringement of the principle of "equality of arms", lack of a speedy review of the lawfulness of the first applicant's detention Fairness of proceedings concerning the applicant's first-instance hearing Serious defects in the selection of the lay judges hearing the first applicant's case	<a href="#">Link</a>
Russia	03 Mar. 2011	Tsarenko (no. 5235/09) Imp. 3	Violation of Art. 3  Violations of Art. 5 § 1 Violation of Art. 5 §§ 3 and 4  Violation of Art. 13 in conjunction with Art. 3	Poor conditions of detention in remand centre IZ-47/1 in St Petersburg Unlawfulness of detention Lack of sufficient reasons to justify the applicant's continued detention; lack of a speedy review of the lawfulness of the detention Lack of an effective remedy	<a href="#">Link</a>
Russia	10 Mar. 2011	Ryazantsev (no. 21774/06) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings (four years and six months)	<a href="#">Link</a>
Spain	08 Mar. 2011	Beristain Ukar (no. 40351/05) Imp. 3	No violation of Art. 3  Violation of Art. 3 (procedural)	Lack of sufficient evidence to conclude that the applicant had been ill-treated during his arrest and detention Lack of an effective investigation (See the CPT <a href="#">Report to the Spanish Government on the visit to Spain carried out by the CPT from 22 November to 4 December 1998</a> ; the <a href="#">Report to the Spanish Government on the visit to Spain carried out by the CPT from 22 to 26 July 2001</a> ; the <a href="#">Report to the Spanish Government on the visit to Spain carried out by the CPT from 12 to 19 December 2005</a> )	<a href="#">Link</a>
the Czech Republic	10 Mar. 2011	Forminster Enterprises Limited (no. ...)	Just satisfaction	Judgment on satisfaction due to the <a href="#">judgment</a> of 9 January 2009	<a href="#">Link</a>

		38238/04) Imp. 2			
Turkey	01 Mar. 2011	Kaba and Others (no. 1236/05) Imp. 3	Violation of Art. 6 § 1 (fairness)	Disproportionate restriction on the applicants' right of access to a court	<a href="#">Link</a>
Turkey	01 Mar. 2011	Nevruz Bozkurt (no. 27335/04) Imp. 3	Three violations of Art. 6 § 1  No violation of Art. 6 § 3 (c) in conjunction with Art. 6 § 1	Lack of impartiality and independence of the State Security Court; lack of legal assistance while in police custody; failure to communicate to the applicant the opinion of the Principal Public Prosecutor at the Court of Cassation Domestic courts' failure to question a witness did not infringe the applicant's right to a fair trial	<a href="#">Link</a>
Ukraine	03 Mar. 2011	Merkulova (no. 21454/04) Imp. 3	Violation of Art. 2 (procedural)	Lack of an effective investigation into the circumstances of the applicant's son's death	<a href="#">Link</a>
Ukraine	03 Mar. 2011	Zhukovskiy (no. 31240/03) Imp. 3	Violation of Art. 6 §§ 1 and 3 (d)	Domestic courts' unreasonable restriction in the applicant's right to examine witnesses on whose testimonies the applicant's conviction was based	<a href="#">Link</a>
Ukraine	10 Mar. 2011	Suk (no. 10972/05) Imp. 3	Violation of Art. 1 of Prot. 1	Domestic courts' arbitrary denial of the applicant's entitlement to a benefit for the period in question	<a href="#">Link</a>

### 3. Repetitive cases

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

The role of the NHRs 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.

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key words</u>
Albania	08 Mar. 2011	Delvina (no. 49106/06) <a href="#">link</a>  Eltari (no. 16530/06) <a href="#">link</a>	Violation of Art. 6 § 1 Violation of Art. 13 in conjunction with Art. 6 § 1 Violation of Art. 1 of Prot. 1	Non-enforcement of final court decisions in the applicants' favour
Turkey	01 Mar. 2011	Sever v. (no. 29195/05) <a href="#">link</a>	Violation of Art. 1 of Prot. 1	Deprivation of property and lack of compensation
Turkey	08 Mar. 2011	Emiroğlu (no. 40795/05) <a href="#">link</a>	Violation of Art. 1 of Prot. 1	Expropriation and lack of adequate compensation
Turkey	08 Mar. 2011	Kiziroğlu (no. 52154/07) <a href="#">link</a>	Violation of Art. 6 § 1	The applicant's inability to access classified documents submitted by the Ministry of Defence to the Supreme Military Administrative Court in proceedings in which he had sought the annulment of his appointment to a different post

### 4. Length of proceedings cases

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

The role of the NHRs may be of particular relevance in that respect as well, as these judgments often reveal systemic defects, which the NHRs 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).

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Link to the judgment</u>
Germany	03 Mar. 2011	Jahnke (no. 39641/08)	<a href="#">Link</a>
Greece	10 Mar. 2011	Hatzigiannis (no. 41769/08)	<a href="#">Link</a>
Hungary	01 Mar. 2011	Csánics (no. 40293/06)	<a href="#">Link</a>
Hungary	01 Mar. 2011	Czigányik (no. 38636/06)	<a href="#">Link</a>
Hungary	01 Mar. 2011	Lantos (no. 33807/07)	<a href="#">Link</a>
Montenegro	08 Mar. 2011	Živaljević (no. 17229/04)	<a href="#">Link</a>
Russia	10 Mar. 2011	Titarenko (no. 25966/04)	<a href="#">Link</a>
Ukraine	03 Mar. 2011	Avramenko (no. 24685/07)	<a href="#">Link</a>
Ukraine	03 Mar. 2011	Kolesnikova (no. 7536/05)	<a href="#">Link</a>
Ukraine	03 Mar. 2011	Prasov (no. 27685/04)	<a href="#">Link</a>
Ukraine	03 Mar. 2011	Sheptitskaya and Sheptitskiy (no. 23747/05)	<a href="#">Link</a>

## **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 21 February to 6 March 2011.**

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Albania	22 Feb. 2011	Ceka (no. 26872/05) <a href="#">link</a>	Alleged violations of Art. 2 (the applicant's son's death and lack of an effective investigation), Art. 3 (the applicant's son's alleged ill-treatment and lack of an effective investigation)	Admissible
Croatia	22 Feb. 2011	Prodanović (no. 64676/09) <a href="#">link</a>	Alleged violation of Art. 3 (conditions of pre-trial detention)	Struck out of the list (friendly settlement reached)
Latvia	22 Feb. 2011	Pozņakovs (no. 32734/03) <a href="#">link</a>	In particular, alleged violation of Art. 6 § 1 (excessive length of criminal 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)
Montenegro	22 Feb. 2011	Nuculović (no. 26259/07) <a href="#">link</a>	The applicant complained about the non-enforcement of the final court's judgment concerning the allocation of social housing	Struck out of the list (the applicant no longer wished to pursue her application)
Poland	22 Feb. 2011	Perliński (no. 26236/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Poland	22 Feb. 2011	Dmoch (no. 23910/09) <a href="#">link</a>	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (excessive length of criminal proceedings)	Idem.

Poland	22 Feb. 2011	Jarocki (no 27146/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of enforcement proceedings)	Idem.
Poland	22 Feb. 2011	Szalecki (no 48598/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Romania	22 Feb. 2011	Gaftoniuc (no 30934/05) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a final judgment in the applicant's favour), Art. 6 § 1 (outcome and length of proceedings), Art. 4 (the applicant had to work on a different position than the one was legally entitled to), Art. 13 (lack of an effective remedy), Art. 8 (private life being affected by a serious illness which she had contracted), Art. 14 (failure of the domestic authorities to take into consideration the particular circumstances of the applicant's situation when reaching their decisions)	Inadmissible as manifestly ill-founded (no appearance of a violation of the rights and freedoms protected by the Convention)
Romania	22 Feb. 2011	Kayali (no 27681/03) <a href="#">link</a>	Alleged violation of Art. 3 (alleged ill-treatment), Art. 6 (infringement of the applicant's right to defence) and Art. 5	Struck out of the list (the applicant no longer wished to pursue his application)
Romania	22 Feb. 2011	Scopet (no 46273/06) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of transport from Rahova Prison's hospital to Baia Mare Prison)	Idem.
Russia	22 Feb. 2011	Chibisov (no 16059/04) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of final and enforceable judgments in the applicant's favour), and Articles 6, 13, 14 and 17	Partly struck out of the list (unilateral declaration of Government concerning the delayed enforcement of the final and enforceable judgments following the pilot judgment of <i>Burdov (no. 2) v. Russia</i> ), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovenia	22 Feb. 2011	Log D.O.O. and Zaluberšek (no 19087/04; 28592/05) <a href="#">link</a>	Alleged violation of Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy), Art. 6 § 1 (unfairness of proceedings)	Struck out of the list (the applicants no longer wished to pursue their applications)
Slovenia	22 Feb. 2011	Potočnik (No. 3) (no 18716/05; 16011/06) <a href="#">link</a>	Idem.	Partly struck out of the list (unilateral declaration of Government concerning the length of proceedings and lack of an effective remedy), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovenia	22 Feb. 2011	Župerl (no 17080/06; 19175/06; 6071/07) <a href="#">link</a>	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil proceedings and lack of an effective remedy)	Struck out of the list (the matter has been resolved at the domestic level)
Slovenia	22 Feb. 2011	Hočevar (no 30241/06) <a href="#">link</a>	Idem.	Struck out of the list (friendly settlement reached)
Slovenia	22 Feb. 2011	Repezza (no 31705/06) <a href="#">link</a>	Alleged violation of Articles 6 § 1 and 13 (excessive length of criminal proceedings and lack of an effective remedy)	Struck out of the list (the applicant no longer wished to pursue his application)
Slovenia	22 Feb.	Večernik (no 44117/06)	Alleged violation of Articles 6 § 1 and 13 (excessive length of civil	Inadmissible (non-respect of the six-month requirement)



	2011	<a href="#">link</a>	proceedings and lack of an effective remedy)	
the United Kingdom	22 Feb. 2011	Kelly (no 28833/06) <a href="#">link</a>	Alleged violation of Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	22 Feb. 2011	Nejat (no 36736/09) <a href="#">link</a>	Alleged violation of Art. 5 § 1 (unlawful detention)	Idem.
Turkey	22 Feb. 2011	Babuna (no 8837/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Turkey	22 Feb. 2011	Oktar (no 8691/09) <a href="#">link</a>	Idem.	Idem.
Turkey	22 Feb. 2011	İş (no 8684/09) <a href="#">link</a>	Idem.	Idem.
Turkey	22 Feb. 2011	Güner (no 8675/09) <a href="#">link</a>	Idem.	Idem.
Turkey	22 Feb. 2011	Müftüoğlu (no 8650/09) <a href="#">link</a>	Idem.	Idem.
Turkey	22 Feb. 2011	Yasa (no 1910/09) <a href="#">link</a>	Idem.	Idem.
Ukraine	22 Feb. 2011	Pokhvalova (no 39670/08) <a href="#">link</a>	Alleged violation of Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy) and Art. 14 (the courts allegedly did not properly assess the evidence and interpret the national law)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Ukraine	22 Feb. 2011	Rudysh (no 41119/07) <a href="#">link</a>	In particular alleged violation of Articles 6 § 1 and 13 (excessive length and outcome of proceedings, lack of an effective remedy, unfairness of proceedings)	Idem.

### 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 7 March 2011: [link](#)
- on 14 March 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](mailto:dhogan@ihrc.ie)).

**Communicated cases published on 7 March 2011 on the Court's Website and selected by the NHRS Unit**

*The batch of 7 March 2011 concerns the following States (some cases are however not selected in the table below): Albania, Armenia, Georgia, Hungary, Latvia, Romania, Russia, Serbia, Slovakia, Spain, the Czech Republic, the United Kingdom, Turkey and Ukraine.*

<u>State</u>	<u>Date of Decision to Communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Georgia	15 Feb. 2011	Okroshidzee bi no 60596/09	Alleged violation of Art. 8 – Domestic courts' refusal to establish paternity for the second applicant
Hungary	15 Feb. 2011	Patyi no 35127/08	Alleged violation of Art. 11 – Domestic authorities' refusal to allow the applicant to organise demonstrations in order to call attention to the situation of those having sustained damage originating in a major bankruptcy case
Romania	15 Feb. 2011	Pulbere no 60997/08	Alleged violations of Art. 2 (substantive and procedural) – The applicant's mother's death while in pre-trial detention – Lack of an effective investigation
Serbia	17 Feb. 2011	Petković no 31169/08	Alleged violations of Articles 2 and 3 – Has the applicant's son's right to life and/or his right not to be subjected to inhuman or degrading treatment or punishment as a result of the respondent State's alleged failure to: (a) provide him with adequate and timely medical assistance; and (b) prevent the proliferation and usage of drugs inside the Požarevac Penitentiary? – Has the applicant's son been subjected to inhuman or degrading treatment or punishment, in breach of Article 3? In particular, does his alleged ill-treatment by the prison guards disclose a substantive violation of this provision? – Having regard to the procedural protection of the right to life, as well as from inhuman or degrading treatment or punishment, was the investigation in the present case by the domestic authorities in breach of Article 2 and/or Article 3?
Turkey	15 Feb. 2011	Alacatay and Others no 14299/05	Alleged violation of Art. 11 – The dissolution of the applicants' association dealing with aid to detainees' and convicted persons' families – Alleged violation of Art. 6 – Unfairness of proceedings
Turkey	15 Feb. 2011	Kizgin no 38909/07	Alleged violation of Art. 11 – The applicant's conviction for having used the Kurdish and English translation of the name of an association, as well as having mentioned the Kurdish version of a town's name in official correspondence

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

*The batch of 14 March 2011 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Bulgaria, Croatia, Estonia, Finland, France, Georgia, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Spain, the Czech Republic, the United Kingdom, Turkey and Ukraine.*

<u>State</u>	<u>Date of Decision to Communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Finland	21 Feb. 2011	Duma no 58254/10	Alleged violations of Articles 3 and 8 – The applicant's deportation to the Russian Federation would allegedly constitute a violation to these Articles given the applicant's age and state of health and the absence of any relatives in the Russian Federation
France	24 Feb. 2011	Ashby Donald and Others no 36769/08	Alleged violation of Art. 10 – The applicants' conviction for publishing fashion photographs on the internet
Georgia	24 Feb. 2011	Dvalishvili no 19634/07	Alleged violation of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment by the police – (ii) Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Poland	21 Feb. 2011	Watroś no 13384/10	Alleged violation of Articles 3 and 8 – Domestic authorities' refusal to allow the applicant to visit his terminally ill father; handcuffing of the applicant and refusal to allow him to wear his own clothes during his father's funeral



Spain	24 Feb. 2011	Manzanas Martin no 17966/10	Alleged violation of Art. 9 and Art. 1 of Prot. 1 in conjunction with Art. 14 – Alleged discrimination on grounds of religion on account of domestic authorities' refusal to grant the applicant a retirement pension
the United Kingdom	24 Feb. 2011	E.B. no. 63019/10	Alleged violation of Art. 8 – Alleged interference with the applicant's right to respect for family life if extradited to Poland on account of the consequent separation from her children, including an infant whom she is breastfeeding

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

##### **Relinquishment of jurisdiction to the Grand Chamber (01.03.2011)**

The Chamber dealing with the case of *Hirsi and Others v. Italy* has relinquished jurisdiction in favour of the Grand Chamber. The applicants, 11 Somali nationals and 13 Eritrean nationals, were part of a group of illegal migrants who left Libya by boat heading for the Italian coast. The application concerns the interception of their boats on the high seas and their immediate return to Libya on board Italian naval vessels. The Court will be holding a hearing in this case on 22 June 2011.

## Part II: The execution of the judgments of the Court

### A. New information

The Council of Europe's Committee of Ministers will hold its next "human rights" meeting from 7 to 9 June 2011 (the 1115DH meeting of the Ministers' deputies).

### B. General and consolidated information

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights:

[http://www.coe.int/t/dghl/monitoring/execution/default\\_en.asp](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](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)

#### Two complaints submitted against Greece for non-respect of provisions of the Charter relating to remuneration and working conditions (09.03.2011)

Two complaints were registered on 21 February 2011. According to the complainant trade unions General Federation of employees of the national electric power corporation (GENOP-DEI) / Confederation of Greek Civil Servants' Trade Unions (ADEDY) measures relating to remuneration and working conditions contained in Act No. 3899/2010 of 17 December 2010 are in violation of certain provisions of the European Social Charter. [Complaint No. 65](#) concerns an alleged violation of Article 4 (right to a fair remuneration) of the ESC and Article 3 of the Additional Protocol of 1988 (Right to take part in the determination and improvement of the working conditions and working environment). [Complaint No. 66](#) concerns measures relating to the remuneration and working conditions of young people which allegedly violate Articles 1 (right to work) , 4 (right to a fair remuneration), 7 (the right of children and young persons to protection), 10 (right to vocational training), and 12 (right to social security) of the ESC.

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](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 publishes report on [Moldova](#) (03.03.2011)

The CPT has published on 3 March a [report](#) on its most recent visit to Moldova, which took place from 21 to 27 July 2010, together with the [response](#) of the Moldovan Government. Both documents have been made public with the agreement of the Moldovan authorities. The initial objective of the visit was to re-examine the situation in prison and police establishments in the Transnistrian region (this region unilaterally declared itself an independent republic in the early 1990s) of the Republic of Moldova. However, on the spot, the delegation was not allowed to speak to remand prisoners in private. Such a restriction contradicts one of the fundamental characteristics of the preventive mechanism embodied by the CPT; consequently, the delegation interrupted its visit to the region. The CPT indicates in the report that it is prepared to resume the visit as soon as the power to interview all categories of detained persons in private is again guaranteed, as had been the case during the Committee's previous visits to the region. In their response, the Moldovan authorities state that they are ready to take action to ensure that any future visits to the region take place without restrictions. The delegation visited Penitentiary establishments Nos. 8 and 12 in Bender, which both operate under the authority of the Moldovan Ministry of Justice but are located in an area controlled by the Transnistrian de facto authorities. In its report, the CPT recommends that the Moldovan authorities pursue their strategy to combat inter-prisoner violence and intimidation, in particular at Penitentiary establishment No. 12 where the delegation found that prison staff had been exploiting the informal prisoner hierarchy to impose order. The delegation also re-examined the treatment of persons detained by the police. Several detained persons met indicated that the behaviour of police officers had considerably improved as compared with only a few years ago. Moreover, the dismissal of a number of police officers and related criminal investigations following the events of April 2009 (\*\*) had apparently had a major deterrent effect. However, the delegation did gather information about a number of cases of alleged police ill-treatment, some of a very serious nature. In response to the Committee's recommendations, the Moldovan authorities state that detailed action plans have been drawn up to improve professional training for the police and reinforce procedural safeguards against ill-treatment. The Moldovan authorities also indicate that police staff have received a clear message of "zero tolerance" of ill-treatment and that an Anti-Torture Division has been set up within the Prosecution Service.

The text of the "CPT Standards" has been updated in [English](#), [French](#), [German](#), [Romanian](#), [Russian](#), [Serbian](#), [Spanish](#), [Turkish](#), [Ukrainian](#) and [Macedonian language](#) (08.03.2011).

### **C. European Commission against Racism and Intolerance (ECRI)**

#### **Voluntary contribution by Germany (03.03.2011)**

The Federal Ministry of Foreign Affairs of Germany has made a voluntary contribution of € 50 000 to the Council of Europe towards the organisation by ECRI of a number of national round tables in 2011, following the publication of its country-specific monitoring reports. These events are addressed to civil-society representatives and government officials; they are meant to provide them with a forum for discussing jointly how best to promote the implementation of ECRI's recommendations. The relevant agreement was signed on 3 March by Ambassador Hans-Dieter Heumann, Permanent Representative of Germany to the Council of Europe and, on behalf of the Council of Europe Secretariat, by Christos Giakoumopoulos, Director of Monitoring.

#### **Council of Europe Anti-Racism Commission to prepare first report on Montenegro (08.03.2011)**

A delegation of ECRI visited Montenegro from 7 to 10 February 2011, as the first step in the preparation of a monitoring report. During its visit, ECRI's delegation gathered information on the situation regarding racism, racial discrimination (i.e. discrimination on grounds of "race", colour, citizenship, national/ethnic origin, religion and language), xenophobia, antisemitism and intolerance in Montenegro. The delegation held meetings in Podgorica and Ulcinj with representatives of all relevant ministries and other competent authorities, human rights NGOs and minority groups. Following this visit, ECRI will adopt its first report on Montenegro in which it will make recommendations on measures to be taken by the authorities in the fields within ECRI's mandate. Among these, three will be revisited in two years' time as part of an interim follow-up procedure.

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

#### **United Kingdom: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities (07.03.2011)**

A delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities visited Belfast, Edinburgh, Cardiff and London from 07 - 11 March 2011 in the context of the monitoring of the implementation of this convention in the United Kingdom. This was the third visit of the Advisory Committee to the United Kingdom. The Delegation held meetings with the representatives of all relevant ministries, public officials, NGOs, as well as national minority organisations. The Delegation included Ms Lidija BASTA FLEINER (member of the Advisory Committee elected in respect of Serbia and First Vice-President of the Advisory Committee), Ms Aleksandra BOJADJIEVA (member of the Advisory Committee elected in respect of "the former Yugoslav Republic of Macedonia", Ms Françoise KEMPF and Mr. Niall SHEERIN of the Secretariat of the Framework Convention for the Protection of National Minorities.

*Note: The United Kingdom submitted its third [State Report](#) under the Framework Convention in March 2010. Following its visit, the Advisory Committee will adopt its own report (called *Opinion*), which will be sent to the Government for comments. The Committee of Ministers of the Council of Europe will then adopt conclusions and recommendations in respect of the United Kingdom.*

### **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)**

#### **FATF Working Groups and Plenary Meeting (Paris, 21-25 February 2011)**

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\* No work deemed relevant for the NHRs for the period under observation

MONEYVAL participated in the working groups meetings and the second FATF Plenary - XXII held under the Mexican Presidency. The [Chairman's summary](#) provides an overview of the major outcomes of the Plenary. At this meeting, the FATF has updated its public statement issued in October 2010 which identifies jurisdictions with strategic anti-money laundering and countering the financing of terrorism (AML/CFT) deficiencies. Also, as part of its on-going review of compliance with the AML/CFT standards, the FATF has identified jurisdictions which have strategic AML/CFT deficiencies for which they have developed an action plan with the FATF. [Improving AML/CFT Compliance: On-going Process](#); [FATF Public Statement](#)

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

### **GRETA launches evaluation of second group of 10 Parties to the Convention**

In February 2011, GRETA launched the evaluation of the second group of 10 Parties to the Convention: Armenia, Bosnia and Herzegovina, France, Latvia, Malta, Montenegro, Norway, Poland, Portugal and the United Kingdom. In February 2011, GRETA launched the evaluation of the second group of 10 Parties to the Convention: Armenia, Bosnia and Herzegovina, France, Latvia, Malta, Montenegro, Norway, Poland, Portugal and the United Kingdom. Since 1 March 2011, the Convention has entered into force in respect of Italy, San Marino and Ukraine. GRETA decided that these three new Parties to the Convention, together with any other countries which accede to it in the future, will form a fourth group of countries to be evaluated in accordance with GRETA's timetable for the first evaluation round.

## Part IV: The inter-governmental work

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

**28 February 2011**

**Georgia** ratified the Convention on Mutual Administrative Assistance in Tax Matters ([ETS No. 127](#)), and the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters ([CETS No. 208](#)).

**8 March 2011**

**Georgia** ratified the European Convention on Consular Functions ([ETS No. 61](#)), and the Protocol to the European Convention on Consular Functions concerning the Protection of Refugees ([ETS No. 61A](#)).

**11 March 2011**

**Spain** signed the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters ([CETS No. 208](#)).

### B. Recommendations and Resolutions adopted by the Committee of Ministers

[CM/RecChL\(2011\)1E / 02 March 2011](#): Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Denmark (Adopted by the Committee of Ministers on 2 March 2011 at the 1107th meeting of the Ministers' Deputies).

### C. Other news of the Committee of Ministers

**Committee of Ministers discuss situation in Southern Mediterranean and Middle East - Chairman's statement (02.03.2011)**

The recent political developments in the Southern Mediterranean and the Middle East reaffirm that the core values of the Council of Europe are universal. People everywhere yearn for democratic and transparent governance, respect for human rights and upholding the rule of law. The core mandate of the Council of Europe is and will remain geographically focused on Europe. But in today's world, the mission of the Council of Europe can best be carried out with greater consideration to Europe's immediate neighbourhood, because the situation near Europe has direct consequences for our continent. With these considerations, the Council of Europe will seek to develop a consistent strategy for a neighbourhood policy, by identifying modalities, criteria and political objectives. In light of the means available to our Organisation, such a strategy needs to be focused and conducted in co-operation with Europe's neighbours and also with relevant international partners.

**Council of Europe publishes report on minority languages in Denmark (03.03.2011)**

The Committee of Ministers has made public the report on the application of the European Charter for Regional or Minority Languages in Denmark. On the basis of this report, the Council of Europe calls on Denmark to increase the level of radio broadcasting in German and provide TV broadcasts in German in South Jutland, in close cooperation with the German-speakers.

### **Council of Europe – European Union High Level Meeting (04.03.2011)**

The Chairman of the Committee of Ministers of the Council of Europe, Turkish Foreign Minister Ahmet Davutoglu, and the Secretary General of the Council of Europe Thorbjørn Jagland met with EU Vice-President and High Representative Catherine Ashton on 4 March in Brussels. The meeting focused on recent developments in the Southern Mediterranean, including Tunisia and Morocco. Minister Davutoglu and the Secretary General, who recently conducted a joint visit to Tunisia, underlined the need for increased coordination of the efforts made by the international community. "I very much welcome the new initiative taken by the UN Secretary General Ban Ki-moon, to take the lead in ensuring effective coordination of the international community's response to recent developments in the Southern Mediterranean", said Secretary General Jagland.

### **Meeting to supervise execution of judgments of European Court of Human Rights (08.03.2011)**

From 8 to 10 March, the Committee of Ministers held its first "Human Rights" meeting for 2011 in the course of which it supervised the execution of the judgments of the European Court of Human Rights. They applied for the first time new working methods, adopted in December 2010, following the High Level Conference at Interlaken on the future of the European Court of Human Rights. [Conference on the future of the European Court of Human Rights](#)

## Part V: The parliamentary work

### A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe adopted by the Standing Committee, acting on behalf of the Assembly, on 11 March 2011

**Resolution 1799:** [Code of conduct for rapporteurs of the Parliamentary Assembly](#)

**Resolution 1798:** [Fair representation of the political parties or groups of national parliaments in their delegations to the Parliamentary Assembly.](#)

**Resolution 1797:** [The need for a global consideration of the human rights implications of biometrics](#)

**Resolution 1796:** [Young offenders: social measures, education and rehabilitation](#)

**Resolution 1795:** [Genetically modified organisms: a solution for the future?](#)

**Resolution 1794:** [Preserving the environment in the Mediterranean](#)

**Recommendation 1960:** [The need for a global consideration of the human rights implications of biometrics](#)

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

#### ➤ *Countries*

#### **Serbia: 'the reforms should not slow down' says PACE President (07.03.2011)**

PACE President Mevlüt Çavusoglu stressed on 7 March the need to complete quickly Serbia's key outstanding commitments and obligations to the Council of Europe. "The reforms should not slow down," he said, during a press conference in Belgrade. "The Serbian Government and Parliament should intensify efforts to amend the electoral legislation and abolish the so-called 'party-administered mandates', strengthen the independence of the judiciary, step up efforts to fight corruption and continue strengthening minority rights. The Assembly stands ready to support Serbia in this process through the monitoring procedure," he added.

#### **PACE President welcomes Serbia's contribution to the reconciliation process between the countries of the former Yugoslavia (07.03.2011)**

Addressing the National Assembly in Belgrade, PACE President Mevlüt Çavusoglu welcomed Serbia's contribution to the process of reconciliation in the region. "The adoption by the National Assembly of the Declaration condemning the Srebrenica massacre, the recent intensification of the relations with Croatia, as well as the joint visit by President Tadic and President Josipovic to Vukovar, are important steps in this process," he said. However, "declarations have to be supported by concrete actions aiming, among others, at resolving the issue of missing persons, promoting effective refugee return and, where appropriate, their local integration," he stressed, encouraging the country to fully implement PACE Resolution 1786 (2011) on "reconciliation and political dialogue between the countries of the former Yugoslavia. In addition, Mr Çavusoglu draw attention to the need to complete the implementation of Serbia's post-accession commitments and statutory obligations to the Council of Europe, one of the key outstanding commitments being the full co-operation with the International Criminal Tribunal for the former Yugoslavia. He recalled the Assembly's recommendation inviting the Serbian Parliament to develop a concrete Roadmap for completing the remaining reforms, in particular the reform of the justice system, the revision of the electoral law, and the elimination of the "party-administered mandates" system. [Speech](#)

#### **PACE President: Vojvodina 'a successful multi-cultural, multi-ethnic society' (09.03.2011)**

Over the years, the Autonomous Province of Vojvodina has built a successful multi-cultural, multi-ethnic and multi-lingual society, said Mevlüt Çavusoglu, the President of PACE, speaking at the end of



a visit to the Autonomous Province on 8 March 2011. "I welcome the efforts of the institutions of Vojvodina aiming at promoting integration and supporting minority communities in the fields of education, culture, the use of minority languages and access to the media," he added. "Of course a lot still remains to be done, especially in order to integrate fully the Roma community, but with strong commitment and concrete initiatives we can move forward," the PACE President said. In this context, he called upon the Serbian authorities to sign and ratify the Madrid Outline Convention on transfrontier co-operation between territorial communities and authorities. "The ratification of the Madrid Convention is not only necessary to complete Serbia's outstanding post-accession commitments, it is also a concrete step towards enabling Serbian local authorities to develop concrete co-operation projects with their counterparts across the border. This helps to promote local and regional economic development, attract investors, create new jobs and strengthen ties between people with different cultural, ethnic and linguistic backgrounds," the President said. During his official visit to Serbia, the President met the Speaker of the Assembly of the Autonomous Province of Vojvodina Sandor Egeresi, the Chairman of the Executive Council Bojan Pajtic, as well as representatives of the National Minority Councils whose offices are located within the territory of the Autonomous Province.

### ➤ *Themes*

#### **Parliamentarians committed to fight sexual abuse against children (28.02.2011)**

"As parliamentarians, we are more than motivated to fight the atrocious phenomenon of sexual child abuse. In the framework of the Council of Europe campaign, we will co-operate with our national governments, with NGOs and with any other partner who needs our support," Maria Stavrositu (Romania, EPP/CD) said on 28 February in New York, speaking at a side-event on the Council of Europe campaign to stop sexual violence against children, organised on the occasion of the meeting of the UN Committee on the Status of Women. "I can ensure you that we will also use our power as parliamentarians to put pressure on our governments to become more committed to this initiative and to ensure the highest protection possible of our children, who have the same human rights of freedom, dignity and physical integrity as any other person," she added. [Speech](#); [Website of the "One in Five" campaign](#)

#### **Renate Wohlwend dismayed about imminent executions in Belarus (01.03.2011)**

Renate Wohlwend (Liechtenstein, EPP/CD), PACE rapporteur on abolition of the death penalty, is dismayed by the prospect of the imminent execution of two young men, Aleh Gryshkautsou, aged 29, and Andrei Burdyka, aged 28, convicted for murder during an armed robbery in 2009. A broadcast on national television on 22 February 2011 recalled that the sentence had come into force after the two men's appeals had been turned down. "The execution of these two men would remove Belarus even further from the European consensus against the death penalty. The death penalty is an unacceptable violation of human rights, no matter what the crime." says Renate Wohlwend. [Report by Ms Wohlwend](#)

#### **Belarus: Stop the silencing of media (04.03.2011)**

Mats Johansson, Standing Rapporteur of PACE on Media Freedom, and Arne König, President of the European Federation of Journalists, made the following statement on the situation of the media in Belarus: "We are shocked by the systematic silencing of the independent media in Belarus, which has dramatically increased since the presidential elections in December last year, resulting into a de facto denial of freedom of expression and information of the Belarus people. While we welcome the release of Natalia Radzina and Irina Khalip as demanded in Resolution 1790 (2011) of PACE, we are still very concerned by the continued detention of others, the denials of the fundamental right to have access to a lawyer while in custody as well as the numerous criminal trials. Therefore, we call on the Belarus authorities and in particular the judiciary to respect the universal human rights commitments of their country. We demand that the authorities in Belarus cease threatening freedom of expression, and express our solidarity with the people and in particular the journalists of Belarus, whose courage we commend." [Statement](#); [Resolution 1790 \(2011\)](#)

#### **PACE rapporteur on Belarus condemns continuing political repression (09.03.2011)**

At a meeting of the PACE Political Affairs Committee in Paris on 9 March, the PACE Rapporteur on the situation in Belarus, Sinikka Hurskainen (Finland, SOC), strongly condemned the continuing repression of civil society, human rights defenders, independent media and political opponents in Belarus. She expressed her deep concern about unfair and politically motivated trials, allegations of torture in detention, the non-transparent investigation into the events of 19 December and continuing

confirmations of death sentences in Belarus. Mrs Hurskainen also condemned the recent warning issued by the Belarus Ministry of Justice against the Belarussian Helsinki Committee and announced that the Political Affairs Committee had decided to consult the Venice Commission on its compatibility with international human rights standards.

### **'Gender equality should not wait another century' says PACE President (07.03.2011)**

"In March 1911, for the first time, more than a million women attended rallies to celebrate the first International Women's Day and ask for women's right to receive an education, to work, to vote and to hold public office," said PACE President Mevlüt Çavusoglu, on the anniversary of International Women's Day 2011. "PACE shall not relent its efforts to eradicate violence against women, promote women's social and economic empowerment and their participation in political and public life. It will continue to express the conviction that men should be at the forefront in this battle, and do its best to ensure that gender equality will not have to wait another hundred years to be realised," he stressed.

### **We politicians should make gender equality happen, for real (07.03.2011)**

José Mendes Bota (Portugal, EPP/CD), Chairperson of the Committee on Equal Opportunities for Women and Men, calls for more parliamentary mobilisation in the promotion of gender equality and women's empowerment. "I cannot think of any other so blatant, widespread and persistent injustice as inequality between women and men," said Mr Mendes Bota on the celebration of the 100th anniversary of International Women's Day. "In one century, immense progress has been achieved in the recognition of equality of rights between women and men. At the same time, an increasing number of policies have been introduced to fight against discrimination and ensure that women and men have the same opportunities in social, economic and political. However, the gap between theory and reality is far too wide." [Speech by José Mendes Bota](#)

### **'For too long, non-discrimination has been regarded as merely an accessory human right', says PACE rapporteur (08.03.2011)**

At a hearing on the declaration of Principles on Equality and activities of the Council of Europe, organised by the Legal Affairs Committee in Paris on 8 March, participants stressed that the right to equality before the law and the protection of all persons against discrimination are fundamental provisions of international human rights law.

### **CPT members should be elected by PACE, says Legal Affairs Committee (08.03.201)**

As a measure to further strengthen torture prevention mechanisms in Europe, the members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) should be elected by PACE in order to vest them with enhanced democratic legitimacy and authority. In a draft recommendation adopted on 8 March in Paris, the PACE Legal Affairs Committee invites the Committee of Ministers to amend the Convention accordingly and to also permit the automatic publication of the visit reports and of the comments of the Parties concerned. Finally, it invites the Committee of Ministers to place on its agenda and discuss as a matter of urgency any public statement adopted by the CPT. The report, by Jean-Charles Gardetto (Monaco, EPP/CD), will be debated at the PACE plenary session in April.

### **Don't treat young offenders as if they are adults, says PACE (11.03.2011)**

Retribution and punishment should take second place to social measures for the education and rehabilitation of young offenders, PACE Standing Committee said on 11 March. In a resolution based on a report by Marietta Karamanli (France, SOC), PACE said depriving children and young people of liberty should be a last resort. "A child or young person – as a developing, learning human being – is still open to positive socialising influences," the parliamentarians said, and should not be treated in the same way as adult offenders. [Doc. 12523](#)

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

### A. Country work

#### **Czech Republic: Inclusion of Roma should be a political priority (03.03.2011)**

Deeply-rooted anti-Gypsyism and hate crimes as well as continued segregation in education and housing are the main obstacles to inclusion that Roma face in the Czech Republic. The authorities should strengthen their efforts to eradicate these problems and implement inclusive policies” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing on 3 March a [report](#) based on his visit to the Czech Republic on 17-19 November 2010. [Read the report and the response of the Czech authorities attached to it](#)

### B. Thematic work

#### **Council of Europe Commissioner for Human Rights publishes Issue Paper on ethical journalism and human rights (28.02.2011)**

“States have a duty to protect the independence, freedom and diversity of the media. At the same time, the public expects journalists to report in a professional and ethical manner, to minimise harm and to act in the public interest”, said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, announcing the publication on March 1 of an Issue Paper on Ethical Journalism and Human Rights. Many of the challenges which impinge on media freedom come from outside the profession. [Read the Issue Paper on Ethical Journalism and Human Rights](#)

#### **Women are underpaid all over Europe (08.03.2011)**

After years of debate and protests, the pay gap still remains. Every day European women continue to experience one of the most deep-rooted injustices – being paid less than a man for work of equal value. Furthermore, the well-known ‘glass ceiling’ continues to prevent many women from career advancement, which in turn has an impact on salary levels – and pensions later in life, says the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, in his Human Rights Comment published on 8 March. The salary gap between women and men in most European countries is between 15% and 20% and there are some countries with an even sharper difference. [Positions on women’s rights. Position Paper from the Council of Europe Commissioner for Human Rights](#)

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

### **First Meeting of the Independent Medical Advisory Panel (IMAP) set up under the European NPM Project, Strasbourg (01.03.2011)**

Composed of eminent medical experts who, together, cover a wide range of expertise linked to torture prevention, the IMAP will advise National Preventive Mechanisms against torture (NPMs) in response to queries addressed to it via the NHRS Unit of the Council of Europe. Chosen by the European NPM Project Team, the eight members of the IMAP will act collectively, but in their individual capacities. Both the questions put to the IMAP and the advice given by it will be brought to the knowledge of the European NPM Network by way of the European NPM Newsletter. The aim of the meeting was to discuss the concrete functioning of the IMAP in detail. More details are available on the NHRS Unit website at: [http://www.coe.int/t/dghl/cooperation/capacitybuilding/nhrs\\_archiveSelectYear\\_en.asp](http://www.coe.int/t/dghl/cooperation/capacitybuilding/nhrs_archiveSelectYear_en.asp)

### **Right to information about the Human Rights Ombudsperson's work confirmed (25.03.2011)**

*Oleksandr Shapovalov, Head of the Kherson region civic organization Right to Life has won his claim in the court of appeal against the refusal of the Human Rights Ombudsperson of Ukraine, Nina Karpachova, to provide information about her work*

On 8 November 2008 Mr Shapovalov filed a suit against the Ombudsperson and her representative V. Yatsenko with the Kherson Administrative Court. He asked that the refusals received to answer his request for information about their work be declared unlawful. Judge Kravchenko rejected the claim, taking into consideration the assertion of the respondents that the information request did not directly pertain to defence of human rights, that the Ombudsperson was not obliged to give explanations about the substance of a case and that the request had been a repeat since the Ombudsperson at that time had already received 24 information requests from Mr Shapovalov. On 17 December 2010 the Odessa Administrative Court of Appeal rejected these arguments, revoked the first court's ruling and issued a new ruling. This allowed the claim, found the Ombudsperson's refusal unlawful and ordered her to provide Mr Shapovalov with the following information about 1998-2008: - the number of protocols under Article 188-19 of the Code of Administrative Offences and the fines; - the number of court rulings with respect to these protocols, as well as the number of rulings later revoked; - the number of court rulings enforced and the overall number of fines. The ruling took force immediately, however a cassation appeal would appear to have been lodged.