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("Peer-to-Peer II Project")

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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

We invite you to read the INFORMATION NOTE No. 141 (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 May 2011 and sorted out as being of particular interest.

A. Judgments

1. Judgments deemed of particular interest to NHRSs

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Right to life**

Association "21 December 1989" and Others v. Romania (nos 33810/07 and 18817/08) (Importance 1) – 24 May 2011 – Violation of Article 2 (procedural) – Lack of an effective investigation into the death of the son of applicants Elena and Nicolae Vlase – Violation of Article 8 – Interference with the second applicant's right to respect for private life on account of surveillance measures gathered by the secret services and kept by for sixteen years – Article 46 – Romania is to provide appropriate redress in order to fulfil the requirements of Article 46 concerning the lack of effective investigations under Article 2

The applicants are the "21 December 1989 Association", its president, Teodor Mărieş and Elena and Nicolae Vlase. They were, or represent, participants, injured victims or relatives of those who died in the crackdown on anti-government demonstrations in December 1989, around the time when the then Head of State, Nicolae Ceauşescu, was overthrown. Two applicants, whose son lost his life in those circumstances, complained about the ineffectiveness of the investigation. Another applicant, president of an association for the defence of the interests of participants and victims of those events, argued that he had been subjected to unlawful surveillance. Mr Mărieş complained in his own name and on behalf of the applicant association, that he had been subjected to secret surveillance measures as a form of pressure by the authorities in connection with his activities as president of an association campaigning for an effective investigation into the events of December 1989.

Article 2 (investigation into the death of Mr and Mrs Vlase's son)

The Court recalled that Article 2 required that an effective investigation be conducted when individuals had been killed by the use of force, especially by agents of the State. The circumstances of the killings

had to be examined promptly, comprehensively and impartially, in order to identify and punish those responsible. As regards the death of Mr and Mrs Vlase's son, the Court noted that an investigation procedure had been pending for over 20 years. The Court observed that in 1994 the case was pending before the military prosecutors of Braşov. Those prosecutors were, on the same basis as the majority of the defendants, who included high-ranking army officers still in office, military personnel bound by the principle of subordination to hierarchy. It further observed that no investigative act concerning the death of the applicants' son had been performed, apparently without justification. The Court further pointed to the obligation to associate the victim's relatives with the proceedings. It noted that no justification had been given for the total failure to give Mr and Mrs Vlase any information about the investigation until July 1999, despite their numerous requests. The Court took the view that the political and social issues referred to by the Romanian authorities in their arguments could not in themselves justify either the length of the investigation or the manner in which it had been conducted without those concerned or the public being informed of its progress. In the case of a widespread use of lethal force against the civilian population during the anti-government demonstrations that preceded the transition from a totalitarian to a more democratic regime, the Court could not regard an investigation as effective when it was concluded by the effect of a time-bar on criminal responsibility, in a situation where it was the authorities themselves that had remained inactive. Moreover an amnesty was generally incompatible with the States' duty to investigate acts of torture and to combat impunity for international crimes. The Court held that there had been a violation of Article 2.

Article 8 (alleged secret surveillance of Mr Mărieş)

Mr Mărieş produced two intelligence notes and a summary report concerning him that had been drawn up in 1990, confirming that he had indeed been subject to surveillance measures. Those documents had been kept by the Romanian intelligence services at least until 2006, when he had obtained copies. The Court observed that it had examined Romanian legislation concerning secret surveillance measures related to national security and concluded that the Romanian system for gathering and archiving information did not provide the safeguards necessary for the protection of individuals' private lives. The domestic law did not indicate with reasonable clarity the scope and manner of exercise of the relevant discretion conferred on the public authorities. The Committee of Ministers of the Council of Europe had issued an Interim Resolution calling for those shortcomings to be remedied rapidly and fully, but despite that measure, among others, the execution of the Court's judgment was still pending to date. In addition, as the Court had also found in 2007, despite amendments to the Code of Criminal Procedure, it still appeared possible for surveillance measures to be ordered in cases of presumed breaches of national security according to the procedure provided for under law no. 51/1991, which had not been repealed. The absence of sufficient guarantees in domestic law had thus had the result that the information gathered in 1990 by the intelligence services on Mr Mărieş was still kept by them 16 years later, in 2006. Moreover, with the lack of safeguards in the relevant domestic law, Mr Mărieş ran a serious risk of having his telephone calls intercepted, in violation of Article 8.

Article 46 (binding force and execution of judgments)

The Court noted that its **finding of a violation of Article 2 on account of the lack of an effective investigation related to a wide-scale problem**, given that many hundreds of people were involved as injured parties in the impugned criminal proceedings. In addition, **more than a hundred applications similar to today's case were pending before the Court. The Court pointed out that in principle Romania remained free to choose the means by which it would discharge its legal obligation under Article 46. It found that general measures at domestic level would unquestionably be necessary in the context of the execution of the present judgment and that Romania would have to put an end to the situation that had led to the finding of a violation of Article 2 in respect of Mr and Mrs Vlase, on account of the right of the numerous persons affected to have an effective investigation and also having regard to the importance for Romanian society to know the truth about the events of December 1989. Romania thus had to provide appropriate redress in order to fulfil the requirements of Article 46. The Court did not find it necessary to adjourn the examination of similar cases pending before it while waiting for Romania to take the necessary measures. The fact of continuing to examine similar cases would regularly remind Romania of it obligation arising from the present judgment.**

Article 41 (just satisfaction)

By way of just satisfaction, the Court awarded Mr and Mrs Vlase 15,000 euros (EUR) each and M. Mărieş EUR 6,000, in respect of non-pecuniary damage. Romania also had to pay a total of EUR 20,000 for costs and expenses.

Anna Todorova v. Bulgaria (no. 23302/03) (Importance 2) – 24 May 2011 – Violation of Article 2 (procedural) – Lack of an effective investigation into the applicant's son's death

The case concerned the death of Ms Todorova's 22-year old son in 1994 when the car he was travelling in had a head-on collision with the trailer of a lorry. The applicant complained about the inadequacy of the investigation into her son's death and the excessive length of the proceedings in which she claimed damages.

The Court recalled that Article 2 did not concern only deaths resulting from the use of force by agents of the State, but it also laid down a positive obligation on the Contracting States to take appropriate steps to safeguard the lives of those within their jurisdiction. In the instant case, there was nothing to indicate that the death of the applicant's son was caused intentionally, and the circumstances in which it occurred were not such as to raise suspicions in that regard. The Court looked at the procedures that were available to the applicant in relation to her son's death. The first was the criminal investigation opened by the prosecuting authorities; the second was a separate civil action that the applicant brought against S.N., the driver of the car. The Court examined the manner in which the criminal investigation unfolded: the first striking feature of that investigation was its considerable length, more than six and a half years. It then took another three years and almost nine months to inform the applicant of the investigation's discontinuance and examine her legal challenge against that. Secondly, it did not seem that the authorities in charge of the proceedings deployed reasonable efforts to gather the evidence and establish the facts. Thus, the criminal investigation could hardly be regarded as effective for the purposes of Article 2. Concerning the separate civil proceedings brought by the applicant, they lasted five years and almost five months, at one level of jurisdiction. The trial court dismissed the applicant's claim exclusively on the basis of the findings made in the criminal investigation, which were, as already noted, tainted by the failure to gather in due time crucial pieces of evidence. It is true that the court's approach could be explained by the applicant's failure to pursue diligently her civil claim after the proceedings were resumed, with the result that the court did not have before it any other evidence on which to base its ruling. It is also true that in an appeal against the trial court's judgment the applicant would probably have been able to obtain from an appeal court a ruling that the case should be examined on the basis of all the evidence, because under Bulgarian law a civil court is not formally bound by the findings that the prosecuting authorities make when discontinuing a criminal investigation. It cannot be overlooked that an appeal would have consumed even more time, and that the applicant would have faced even greater difficulties, many years after the events, to produce convincing evidence in support of her claim. In as much as the criminal investigation failed to shed sufficient light on the facts surrounding the death of the applicant's son, in practice the applicant was deprived of access to the effective judicial system required by Article 2. In the specific circumstances of this case the civil-law remedy that was available to her cannot be regarded as effective. The Court concluded that the legal system as a whole, faced with an arguable case of a negligent act causing death, failed to provide an adequate and timely response consonant with the State's obligation under Article 2 to provide an effective judicial system, in violation of that provision.

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

R.R. v. Poland (no. 27617/04) (Importance 1) – 26 May 2011 – Violation of Article 3 – Violation of Article 8 – Humiliating treatment of a mother denied timely access to genetic tests in order to determine the health of the foetus, born seriously disabled

The case concerned a pregnant mother-of-two - carrying a child thought to be suffering from a severe genetic abnormality - who was deliberately denied timely access to the genetic tests to which she was entitled by doctors opposed to abortion. Her child was born with Turner syndrome. The applicant's husband left her after the baby was born. The applicant asked for criminal proceedings to be brought against the doctors responsible for failing to perform timely prenatal tests. The applicant complained that she was denied access to the prenatal genetic tests to which she was entitled when pregnant due to doctors' lack of proper counseling, procrastination and confusion. She therefore missed the time-limit for a legal abortion and subsequently gave birth to a baby suffering from Turner syndrome.

Article 3

The Court noted that the applicant had received insufficient compensation (PLN 35,000) from the Polish courts in relation to the issues raised before the Court and thus had not lost her status as a victim. The Court observed that the scan carried out in the 18th week of the applicant's pregnancy confirmed the likelihood that the foetus was affected with an unidentified malformation. The applicant repeatedly tried and failed to obtain access to genetic tests which would have provided her with information confirming or dispelling her fears due to the doctors' procrastination, confusion and lack of proper information. There were various unequivocal legal provisions in force at the relevant time which specified the State's obligations towards pregnant women regarding their access to information about

their health and that of the foetus. However, there was no indication that the legal obligations of the State and of the medical staff regarding the applicant's rights as a patient were taken into consideration by the institutions dealing with her requests. As a result, she had had to endure weeks of painful uncertainty concerning the health of the foetus, her own and her family's future. The results of the amniocentisis were thus too delayed in order for the applicant to make an informed decision on whether to continue the pregnancy or to ask for a legal abortion. The Court could only agree with the Polish Supreme Court's view that the applicant had been humiliated. There had therefore been a violation of Article 3.

Article 8

The Court noted that, while States had a broad margin of appreciation regarding the circumstances in which an abortion would be permitted, once that decision had been taken, there had to be a coherent legal framework in place to allow the different legitimate interests involved to be adequately taken into account in accordance with the Convention. The Court reiterated that prohibition of the termination of pregnancies sought for reasons of health amounted to an interference with the applicants' right to respect for their private lives. The Court considered that provisions regulating the availability of lawful abortion should be formulated in such a way as to alleviate that "chilling effect". In the applicant's case, what was at stake was essentially timely access to a medical diagnostic service that would, in turn, make it possible to determine whether or not the conditions for lawful abortion had been met. In the applicant's case, there had been a six week wait between the first relevant scan and the receipt of the amniocentesis results. As a result, she was unable to obtain a diagnosis of the foetus' condition, established with the requisite certainty, by genetic tests within the time-limit, for abortion to remain a lawful option for her. The Court did not agree with the Polish Government that providing access to prenatal genetic tests was in effect providing access to abortion. The Court considered that it had not been demonstrated that Polish law contained any effective mechanisms which would have enabled the applicant to have access to the available diagnostic services and to take, in the light of their results, an informed decision as to whether or not to seek an abortion. The Court concluded that the Polish authorities had failed to comply with their obligations to ensure the effective respect of the applicant's private life and that there had been a violation of Article 8.

Article 41

Under Article 41 (just satisfaction), the Court held that Poland was to pay the applicant 45,000 euros (EUR) in respect of non-pecuniary damage and EUR 15,000 in respect of costs and expenses.

Derman v. Turkey (no. 21789/02) (Importance 3) – 31 May 2011 – Violation of Article 3 – The criminal proceedings against the police officers responsible for torturing the applicant in police custody were considered ineffective given that, although found guilty, their sentences had subsequently been suspended on the ground that it was unlikely that they would reoffend

A former shopkeeper, the applicant alleged that he had been beaten, blindfolded, stripped naked, hosed with water and subjected to falaka (beating on the soles of the feet) when held in police custody in January 1999 on suspicion of robbery. Just before and after his release he underwent three medical examinations which reported bruising to his shoulders, waist and navel as well as psychological trauma. In December 2001 the domestic courts found that the three accused police officers had ill-treated the applicant in order to extract a confession from him. Their initial sentence of one year's imprisonment and a ban from public service for three months was subsequently reduced to ten months' imprisonment. Their sentences were ultimately suspended as the courts found that it was unlikely that they would reoffend. A subsequent compensation claim brought by the applicant was rejected by the Supreme Administrative Court in January 2008. The applicant is still apparently being treated for psychological problems on account of the ill-treatment he suffered in 1999.

The applicant complained that he had been tortured in police custody and that the ensuing criminal proceedings against the police officers responsible had been ineffective.

Given the domestic courts' decision of December 2001 in which it had found the police officers guilty as charged, the Court found it established that the applicant had been ill-treated during police custody as alleged. The Court recalled that, where a credible assertion had been made of torture and/or inhuman and degrading treatment, there should be an effective official investigation whereby those responsible were identified and held to account. Under no circumstances should the domestic authorities be prepared to let physical or psychological suffering go unpunished. However, the way in which domestic law had been applied in the applicant's case had effectively rendered the police officers' convictions ineffective. Instead of showing that torture could in no way be tolerated, the judges had exercised their discretion to minimise its consequences. Far from being rigorous, the Turkish criminal as applied in this case had not been sufficiently dissuasive. The Court therefore held

that there had been a violation of Article 3. The Court held that Turkey was to pay the applicant 42,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,000 for costs and expenses.

Duval v. France (no. 19868/08) (Importance 2) – 26 May 2011 – Violation of Article 3 – Security measures imposed on a detainee during medical examinations in the presence of prison staff amounted to degrading treatment

In October 1999 the applicant was prosecuted and remanded in custody for rape of a minor by a person in a position of authority and was sentenced to 15 years' imprisonment. During his detention he had to be taken to an outside hospital several times between 2000 and 2006 for health reasons. The conditions in which the applicant was escorted for the hospital visits were the same nearly every time: he wore handcuffs and was shackled by the ankles during the journey there and back and during the consultation. The applicant added that he had been handcuffed behind his back on several occasions. Furthermore, prison warders, or even police officers, were present in the consultation room. The applicant said that he had felt humiliated, in particular in September 2005 during a urological examination when two prison warders had refused to leave the room despite his request that they do so, on account of the nature of the examination (rectal). In June 2005 the applicant applied to the *Conseil d'Etat* for a circular of 18 November 2004 on the organisation of prison escorts of detainees attending medical consultations to be quashed. The circular provided for three levels of supervision, the choice of which was a matter for the discretion of the governor of the prison. The applicant maintained that the possibility of extending, if necessary, restraint measures to medical consultations and not just to transfers and authorised journeys to and from prison was contrary to Article 3. The *Conseil d'Etat* dismissed the application by a judgment in October 2007, finding that the provisions in question were to be used only where there was a serious risk of escape or a breach of public order and did not authorise any treatment exceeding the level of restraint necessary for the conduct of a medical consultation in satisfactorily safe conditions. In July 2007 the applicant was released on licence.

The applicant complained that he had been kept in handcuffs and shackles during the medical consultation; that handcuffing him behind his back and shackling him and carrying out an intimate medical examination in full view of the escort officers had been a totally disproportionate measure.

The Court recalled that handcuffing did not normally give rise to an issue under Article 3 where the measure had been imposed in connection with a lawful detention and did not entail use of force, or public exposure, exceeding what was necessary. The Court was not in possession of the exact security rules applied when the applicant had been taken to and from his medical consultations (the record of those being kept only for one year) that would enable it to assess the necessity of those measures. It examined the applicant's case in the light of a report by the General Inspectorate of Social Affairs (IGAS) of 20 September 2005. That report set out the facts as related by the applicant and confirmed by the medical and prison staff and undisputed by the Government. The IGAS had come to the conclusion that the hospital visits had been carried out in accordance with the rules in force governing the organisation of prison escorts. It acknowledged, however, that the security conditions had taken precedence over the patient's right to privacy and confidentiality. The Court concluded from this that the measures in question had been disproportionate to the security requirements. It pointed out that the measures had aroused in the applicant feelings of arbitrariness, inferiority and anguish reaching a level of humiliation exceeding that inevitably caused by medical examinations of a detainee. The Court referred to the principle established in the case-law of the *Conseil d'Etat* that security measures must be adapted and proportionate to the detainee's dangerousness and that regard must be had to a certain number of factors such as the risk of escape, the detainee's state of health and the information in the file on the detention itself. It also noted that **the CPT recommended that medical treatment be administered without prison escort officers being present. The CPT had added that an examination of detainees subject to restraint measures was a questionable practice**. Those findings and recommendations had all been endorsed by the Council of Europe Commissioner for Human Rights. The Court considered that the Government had failed to show that the rules applied to the applicant during journeys to and from the hospital and during medical consultations had been strictly necessary for the purpose of safety requirements. The Court concluded that the security measures imposed on the applicant during the medical examinations, combined with the presence of the prison staff, amounted to degrading treatment, in violation of Article 3. Under Article 41 (just satisfaction), the Court held that France was to pay the applicant 6,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,980 in respect of costs and expenses.

Khodorkovskiy v. Russia (no. 5829/04) (Importance 1) – 31 May 2011 – No violation of Article 3 (substantive) – As regards the conditions of detention in remand prison between 25 October

2003 and 8 August 2005 – Two violations of Article 3 (substantive): (i) Poor conditions of detention in remand prison after 8 August 2005; (ii) Humiliating security arrangements during the applicant's hearings in the court room – Violation of Article 5 § 1 (b) – Unlawful apprehension of the applicant – No violation of Article 5 § 1 (c) – Lawful detention of the applicant as a criminal suspect – Violation of Article 5 § 3 – Unjustified continued detention – Four violations of Article 5 § 4 – (i) Failure to notify the applicant's lawyer of the detention request in good time; (ii) Extension of the applicant's detention in his and his lawyer's absence; (iii) Domestic authorities' failure to consider the applicant's application for release; (iv) The courts had examined the applicant's appeal against detention one month and nine days after it had been brought – No violation of Article 18 – The charges against the applicant had amounted to a "reasonable suspicion" and had thus been compatible with the Convention

The case concerned the arrest and detention for several years of one of the then richest people in Russia on charges of economic crimes. The applicant is currently serving a sentence of imprisonment and in parallel he is detained in connection with a second criminal case against him. The applicant complained that he was detained unlawfully and for too long in appalling conditions and that the charges against him had been politically motivated.

Article 3 (conditions of detention and in court)

The Court found that the conditions in which the applicant had been detained between the day of his apprehension and 8 August 2005 had not breached the Convention. While the ventilation had been poor and he had had no privacy when using the toilet, in exchange for a fee he had paid he had exercised in the prison fitness room, had taken additional showers and had received food and medicine from his relatives during that period. However, the applicant had been kept in inhuman and degrading conditions between 8 August and 9 October 2005. In particular, he had had less than 4 square metres of personal space in his cell, and the sanitary conditions had been appalling. There had therefore been a violation of Article 3. The Court found a further violation of Article 3 as the applicant had been humiliated by the security arrangements in the court room during the hearings. He had been accused of non-violent crimes, had no criminal record, and there had been no evidence that he was predisposed to violence. Despite that, he had been kept in the cage throughout the trial, exposed to the public at large, which had humiliated him and aroused in him feelings of inferiority.

Article 5 § 1 (b) (apprehension)

The applicant had missed the questioning as a witness to which he had been summoned on 23 October 2003. That, however, could not justify taking him forcefully to Moscow in a manner more appropriate for dealing with dangerous criminals than witnesses. Further, only hours after the start of his questioning as a witness, the applicant had become an accused when 35-page-long charges of criminal offences had been brought against him and a 9-page-long request for his detention had been filed with the court. The speed with which the investigating authorities had acted suggested that they had been prepared for such a development and had wanted the applicant as a defendant and not as a simple witness. Therefore, his apprehension had been unlawful as it had been made with a purpose different from the one expressed. There had therefore been a violation of Article 5 §1 (b).

Article 5 § 1 (c) (further procedure-related complaints)

The Court found no violation of Article 5 § 1 (c) despite the fact the first two detention hearings had taken place in private, and the detention orders issued then had not specified the period for which the applicant had had to be detained. While it had been regrettable that no time limit had been mentioned in those detention orders, the applicant had been well represented legally and could have easily established the maximum period of detention allowed in such cases in Russian law.

Article 5 § 3 (length of detention and lawyer's note seizure)

The Court found that the applicant's initial detention could have been justified given the potential risks he had posed as one of the richest people in Russia who had been politically influential. However, his detention had been extended without justification on two occasions. In addition, the Russian courts should have considered applying to him alternative means of restraint, other than detention. Last, but not least, the note seized from his lawyer had been written by the lawyer, during her interview with the applicant and concerned his criminal case. Therefore, it should have been treated as privileged material in principle. No Russian law prohibited a lawyer from taking notes during meetings with clients, nor clients from dictating instructions to their lawyers or studying material prepared by them. The search of the applicant's lawyer had not been justified in the circumstances. However, the Russian courts had disregarded the fact that the note had been obtained in violation of the lawyer-client privilege and had relied on it while extending the applicant's detention. The Court concluded that the applicant's continued detention had not been justified, in violation of Article 5 § 3.

Article 5 § 4 (procedural flaws in detention proceedings)

The Court found four separate violations of Article 5 § 4, because of the reasons indicated below. Firstly, in the context of the 23 December 2003 detention hearing, the applicant's lawyers had received rather late the 300-page long detention request by the prosecution and had not been able to communicate freely with their client. That had placed the applicant at a disadvantage compared with the prosecution. Secondly, the detention hearing of 20 May 2004, during which the applicant's detention had been extended for up to six months, had taken place in his and in his lawyers' absence. Therefore, he had not been able to plead his case, not even via his lawyers. Thirdly, the Russian courts had not considered the applicant's application for release of 16 June 2004. Lastly, the courts had examined the applicant's appeal against detention one month and nine days after it had been brought, which had been too late.

Article 18 (allegation of authorities' political motivation)

The Court observed that while the applicant's case might raise some suspicion as to what the real intent of the Russian authorities might have been for prosecuting him, claims of political motivation behind prosecution required incontestable proof, which had not been presented. The fact that the applicant's political opponents or business competitors might have benefited from his detention should not have been an obstacle for the authorities to prosecute him if there were serious charges against him. Political status did not guarantee immunity. Otherwise, anyone in the applicant's position would be able to make similar allegations, and in reality it would be impossible to prosecute such people. The Court, persuaded that the charges against the applicant had amounted to a "reasonable suspicion" and hence had been compatible with the Convention, held that there had been no violation of Article 18 in conjunction with Article 5.

Article 41 (just satisfaction)

Under Article 41, the Court held that Russia was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage, and EUR 14,543 for costs and expenses.

- **Right to liberty and security**

Elsner v. Austria (Nos. 1-6) (nos. 15710/07, 31805/07, 36230/07, 40937/07 17239/08 and 41402/08) (Importance 2) – 24 May 2011 – No violation of Article 5 § 3 – Bank manager's 15-month detention on remand was justified

The case concerned the complaint by Helmut Elsner, a former bank manager and a well-known figure in Austria, that his detention on remand in criminal proceedings against him was unlawful and excessively long, and that public statements by politicians amounted to finding him guilty before his conviction by a court. The applicant complained about the unlawfulness and excessive length of his pre-trial detention. He further alleged that the public statements by politicians and public officials amounted to finding him guilty without his being convicted by a court.

Article 5 § 3

The Court considered that the period to be taken into consideration for the applicant's detention started in February 2007, when he was remanded in custody in Austria and ended in May 2008, when he was for the first time convicted of fraud. The Court found that without a doubt there had been a reasonable suspicion that the applicant had committed criminal offences. The Austrian courts had carefully examined the relevant arguments and given a number of specific reasons justifying the assumption of a risk that the applicant might abscond and repeatedly examined whether such a risk still persisted. The Court could not find that the competent national court failed to act with the necessary special diligence in conducting the proceedings. The case had been particularly complex given the nature of the charges, the number of people accused and the necessity to obtain comprehensive expert opinions on the business activities of the bank both in Austria and abroad. At the time the applicant had been taken into detention on remand the criminal investigation against him and his co-accused had already been concluded; the trial had started in July 2007 and, after more than 100 court hearings, the trial court had delivered the first judgment in May 2008. The length of the applicant's detention could thus be regarded as reasonable and the reasons had been relevant and sufficient within the meaning of Article 5 § 3. There had accordingly been no violation of this Article.

Ťupa v. the Czech Republic (no. 39822/07) (Importance 2) – 26 May 2011 – Violation of Article 5 § 1 – Unjustified detention in a psychiatric hospital of the applicant, a man with no history of mental illness

The applicant alleges that, following disputes with his family, the police were called to his home in January 2007 and he was taken to Jihlava psychiatric hospital where he was detained against his will. On 8 January 2007 the domestic courts decided that, mentally ill, the applicant needed to be admitted

as he was a danger to himself. The courts based that decision on interviews carried out by a senior court clerk with both a doctor from the psychiatric hospital and with the applicant himself. The doctor stated that the applicant had been hospitalised at the recommendation of his general practitioner ("GP") who reported that he suffered from auditory hallucinations and paranoia and had threatened to kill his brother. The applicant denied those allegations, maintaining that he had not seen his GP in several months and had never been treated before for any kind of mental illness, either by a psychiatrist, psychologist or medication. He claimed that his mother and brothers had orchestrated his detention following arguments. His appeal was subsequently rejected on the ground that the record of those interviews was sufficient evidence on which to base a decision, especially given that it had had to be made without further delay. The applicant was eventually released from hospital on in March 2007. His subsequent constitutional complaint was dismissed in July 2007.

The applicant complained about his placement in psychiatric care, even though he had had no history of psychiatric illness or violence and had never even been examined by a psychiatrist before.

The Court noted that this was not a case of emergency detention; the applicant's placement in psychiatric care had apparently been planned and recommended by his GP. Furthermore, the applicant had stated that he had no history of psychiatric illness or violence. Instead of these elements prompting the domestic courts to carry out a thorough review of the applicant's detention, their decisions had been based solely on one document. The applicant's claims had not been examined and neither his GP – strikingly as it had essentially been on his recommendation that the detention had been ordered – nor his family had been summoned to clarify the matter. The Court therefore considered that the domestic courts had not had sufficient evidence to justify the applicant's detention. Nor had any less severe measures than detention in a psychiatric hospital been envisaged and deemed inadequate. Indeed, the domestic courts had expressed no view on this, even though the applicant had never undergone any psychiatric treatment before. In conclusion, the Court considered that the domestic courts had failed to subject the applicant's detention in psychiatric care to thorough scrutiny, in violation of Article 5 § 1. The Court held that the Czech Republic was to pay the applicant 12,000 euros (EUR) in respect of non-pecuniary damage.

- **Right to a fair trial**

Maggio and Others v. Italy (nos. 46286/09, 52851/08, 53727/08, 54486/08 and 56001/08) (Importance 2) – 31 May 2011 – Violation of Article 6 § 1 – Unfairness of proceedings concerning the re-adjustment of pensions of Italians who temporarily worked abroad – No violation of Article 1 of Protocol No. 1 – The reduction of the applicant's pension had not imposed on him an excessive burden – No violation Article 14 in conjunction with Article 6 – The date of the entry into force of the new law had been reasonably and objectively justified

The cases concerned a group of Italian nationals who migrated temporarily to Switzerland to work and the subsequent proceedings they brought on their return to Italy about the calculation of their old-age pension. There are approximately 400 similar cases currently pending before the Court. All the applicants complained that the new law which modified their pension calculations – retroactively – had been enacted while the proceedings to decide on their claims were still pending before the domestic courts. The first applicant further alleged that this legislative intervention had discriminated against him, as a claimant whose proceedings were not yet finalised, as opposed to others whose more favourable pension treatment had already been liquidated before the entry into force of the new law on 1 January 2007. He also complained about the reduction in his pension resulting from the new law. The other four applicants complained that, as a result of recent case-law in Italy on this point, any judicial remedies would have been futile, leaving them without an effective domestic remedy.

Article 6 § 1 (fairness of proceedings)

The Court noted that Law 296/2006 excluded pension treatments already liquidated and settled retrospectively the terms of the disputes before the ordinary courts. It found that this interference had not been reasonably justified. Financial considerations could not on their own warrant the legislature substituting itself for the courts in order to settle disputes. Nor was the Court persuaded that re-establishing an equilibrium in the pension system was an argument which outweighed the dangers inherent in the use of retrospective legislation. The Court concluded that the State had interfered in a decisive manner to ensure a favourable outcome for it in proceedings to which it had been a party. There had therefore been a violation of Article 6 § 1 concerning all the applicants.

Article 1 of Protocol No. 1 (protection of property)

The Court observed that the first applicant's pension had been reduced by less than half, which it considered reasonable and commensurate. Furthermore, since he had paid lower contributions when working in Switzerland than he would have had to pay in Italy, he had been able to enjoy more

substantial benefits during that time. Moreover, the reduction in his pension had aimed at avoiding unjustified advantages for those who had worked abroad. Bearing in mind a State's discretion to regulate their pension system and the fact that the first applicant had only lost part of his entitlement, the Court held that the reduction in his pension had not imposed on him an individual and excessive burden. There had therefore been no violation of Article 1 of Protocol No. 1 as concerned the first applicant.

Article 14 (prohibition of discrimination) in conjunction with Article 6 § 1

The Court recalled that Law 296/2006 had been intended to level out any unjustified advantages and that, in creating a scheme of benefits, it was sometimes necessary to use cut-off points that apply to large groups of people and which might appear arbitrary. This was inevitable when replacing previous schemes with new regulations. The Court found that the cut-off date – 1 January 2007, date of the entry into force of the new law – had therefore been reasonably and objectively justified. Accordingly, there had been no violation of Article 14 in conjunction with Article 6 as concerned the first applicant.

Article 41 (just satisfaction)

The Court held that Italy was to pay, for pecuniary damage, EUR 20,000 to the first applicant and EUR 50,000 to the other applicants and, for non-pecuniary damage, EUR 12,000 to each applicant. No award was made for costs and expenses.

Konstas v. Greece (no. 53466/07) (Importance 2) – 24 May 2011 – Violation of Article 6 § 2 – Interference with the applicant's right to being presumed innocent on account of comments made by persons of authority about the applicant in the context of criminal proceedings against him that were still pending on appeal – Violation of Article 13 – lack of an effective remedy

The case mainly concerns comments made by the Greek Prime Minister and two Greek ministers about the applicant (former university professor, Minister for the Press and Minister Plenipotentiary at the Council of Europe) in the context of criminal proceedings against him that were still pending on appeal. The applicant complained that statements made in Parliament by the Prime Minister, the Deputy Minister of Finance and the Minister of Justice, in which he had been portrayed as guilty even though the judicial proceedings in the Court of Appeal had not yet been concluded, had breached his right to be presumed innocent. He further alleged that no effective remedy was available to him in Greece in respect of his complaint.

Article 6 § 2

The Court reiterated that the principle of the presumption of innocence required that no representative of the State should declare that a person was guilty of a criminal offence before he had been proved guilty according to law. Article 6 § 2 did not prevent the authorities from referring to a conviction decided at first instance, when the proceedings were still pending on appeal, but it required that they do so with all the discretion necessary if the presumption of innocence was to be respected. The Court examined in detail the statements of which the applicant complained: the remarks by the Deputy Minister of Finance had made the applicant very easily identifiable; the statements of the Prime Minister and Minister of Justice made express reference to the criminal case in question and to the persons involved. In view of the applicant's involvement in that case, with its wide media coverage in Greece, and given his status and the posts he had held in the past, the Court considered that the remarks of the Prime Minister and Minister of Justice related to the applicant to a degree that was sufficient to render him identifiable. As the Prime Minister had made only a general reference to the subject matter of the case, that could not be regarded as an attempt to prejudge the Court of Appeal's verdict. There had thus been no violation of Article 6 § 2 in respect of the Prime Minister's statements. As regards the unequivocal and casual words of the Deputy Minister of Finance they were, by contrast, likely to make the public believe that the applicant was unquestionably guilty. As to the Minister of Justice's remarks, according to which the Greek courts had convicted "boldly and resolutely" those involved in the case, they could give the impression that this Minister was satisfied with the applicant's conviction at first instance and was encouraging the Court of Appeal to uphold that judgment. Having regard to the particular function of the Minister of Justice, the Court found that the words he had used seemed to prejudge the Court of Appeal's judgment. In conclusion, the remarks of the Deputy Minister of Finance and of he Minister of Justice had gone far beyond a mere reference to the applicant' conviction at first instance. The Court paid particular attention to the fact that the remarks had been made by high-ranking politicians who were supposed to show particular restraint when commenting on judicial decisions. There had thus been a violation of Article 6 § 2 on account of the statements by the Deputy Minister of Finance and by the Minister of Justice.

Article 13

The Greek Government argued that the applicant had a remedy in domestic law by which he could have submitted in Greece his complaint about the presumption of innocence. They referred in particular to the possibility of bringing before the Greek courts an action for damages in cases of infringement of personality rights. The Court observed that the principle of the presumption of innocence mainly constituted a procedural safeguard, being one of the features of a fair trial under Article 6. An action for damages, as invoked by the Government, could not have provided full redress for the alleged breach of the right to be presumed innocent. There had thus also been a violation of Article 13.

Article 41

Under Article 41 (just satisfaction), the Court held that Greece was to pay the applicant 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 10,000 for costs and expenses.

Kontalexis v. Greece (no. 59000/08) (Importance 2) – 31 May 2011 – No violation of Article 6 § 1 – Domestic courts' lawful scheduling of hearings for dates when the composition of the bench was already known – Violation of Article 6 § 1 – Unjustified replacement of a judge

The applicant complained of a violation of his right to be heard by an "impartial tribunal established by law" in proceedings against him for stock market fraud. The applicant complained in particular that the public prosecutor at the first-instance court had set down the date of the hearing at a time when the composition of the court had already been decided. He further complained that a judge who was to retry him had suddenly been replaced by a substitute without any reason being given. Lastly, he complained that the public prosecutor at the Court of Cassation had appealed against his acquittal but not against that of another person charged with the same offences, and that the same prosecutor had represented the prosecuting authorities at the Court of Cassation in the appeal proceedings against his conviction.

The Court recalled that under Article 6 § 1 a "tribunal" must always be "established by law". The "law" refers not only to the legal basis for the very existence of the tribunal but also to the composition of the bench in each case. It is primarily for the domestic courts to resolve problems of interpretation of domestic legislation. According to the Greek Government it was permissible under Greek law to schedule a hearing for a date on which the composition of the bench was already known, in order to avoid the proceedings becoming time-barred (an argument upheld by the Criminal Court and the Court of Cassation). The Court accepted that argument, noting that the domestic courts had applied the domestic legislation. There had therefore been no violation of Article 6 § 1 in this regard. The Court noted that under Greek law records of court proceedings were required to indicate the reason why a judge was replaced, failing which the proceedings would be null and void. In the instant case the record of the proceedings indicated only that the judge had been "unable to attend". The Court accepted that there existed some doubt about the reality of the reasons and the transparency of the replacement procedure. It could therefore not consider the court before which the applicant appeared on 28 June 2007 as a "tribunal established by law". There had accordingly been a violation of Article 6 § 1 in that regard. Under Article 41 (just satisfaction), the Court held that Greece was to pay the applicant 3,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 for costs and expenses.

Legrand v. France (no. 23228/08) (Importance 2) – 26 May 2011 – No violation of Article 6 § 1 – Retrospective application of a reversal of case-law to proceedings already under way did not in itself infringe the applicants' right to a fair hearing

Mrs Legrand had plastic surgery in 1989, following which she picked up a severe infection requiring seven operations to cure her. Mrs Legrand brought criminal proceedings, lodging a complaint and application to join the proceedings as a civil party with the investigating judge of the *Rouen tribunal de grande instance*. The case concerned the question of the retrospective application of a departure from precedent by the Court of Cassation. In a judgment of July 2006, the Court of Cassation, reversing its previous case-law, had held that all grounds capable of justifying the claim should be submitted when it was first filed. In particular, merely changing the legal basis on which the claim was brought was no longer sufficient grounds to establish a difference in the nature of the claim. The applicants submitted that this new case-law could not be applied to the proceedings already under way in their case because that would deprive them of their right of access to a court to seek compensation. In a judgment of October 2007 the Court of Cassation quashed the judgment of the Court of Appeal on the basis of the departure from precedent, thus definitively depriving the applicants of any compensation. It held that they should have submitted to the Criminal Court all the grounds they considered capable of justifying their claims. As the case brought before the Court of Appeal had, like the original claim (on criminal charges), been directed against the same persons and been aimed at obtaining

compensation for the damage sustained following the surgical operation, that court had not had power to rehear the case.

The applicants complained that a violation of their right to a fair hearing on account of the retrospective and unforeseeable application to their case of the judgment of the Court of Cassation.

The Court reiterated that the principle of legal certainty constituted one of the fundamental aspects of the rule of law, and correspondingly of the right to a fair hearing. However, that principle and the need to preserve the legitimate confidence placed by the public in the courts did not confer any right to no reversals of case-law. With regard to the applicants' case, the Court noted that they could not rely on a right to compensation definitively acquired in their favour after the judgment of the Court of Appeal. That judgment had been subject to appeal by the doctor, who had, moreover, appealed on points of law. The Court also pointed out that it was not its task to give an opinion on the appropriateness of the Court of Cassation's decision to depart from its earlier case-law, which was one relating to domestic law. In any event, that departure from precedent (which had emanated from the most authoritative bench of that court) had been known to all the parties when the doctor had lodged his appeal on points of law, so there had been no uncertainty as to the state of the law when the Court of Cassation had given its ruling. Furthermore, the judgment of the Court of Cassation had not had the effect of depriving the applicants of their right of access to a court, even retrospectively. It had not called into question the initial complaint lodged with the Criminal Court, but merely observed that they should have submitted to that court all the grounds capable of justifying their request for compensation for their loss. The decision by the applicants to withdraw their appeal in criminal proceedings and sue the doctor in civil proceedings had been a personal procedural choice, and it was primarily for the domestic courts to judge the consequences of that. In those circumstances, there had been no infringement of the applicants' right to a fair hearing, in particular their right of access to a court. There had been no violation of Article 6 § 1.

Içen v. Turkey (no. 45912/06) (Importance 2) – 31 May 2011 – Violation of Article 6 § 1 – The applicant had been tried as a civilian by a military criminal tribunal

In 2004, while working as a translator, being a civil servant employed by the Turkish army, the applicant was convicted of disobeying orders and of insulting her superior, following a series of rows they had had. She was tried by a military tribunal and sentenced to more than seven months' imprisonment. She served half her sentence in a military prison. The applicant complained that she had been tried as a civilian by a military criminal tribunal.

The Court noted that the applicant, a civil servant, was criminally sentenced by a military tribunal and was convicted of disobeying orders and of insulting her superior to more than seven months' imprisonment. The Court noticed that, if tried by civilian courts, the applicant's sanction would have been the withholding of a salary or a warning. The Court had to examine whether overriding reasons justifying the applicant's trial by a military court existed. The Court recalled its case-law in which it held that the question of trials of civilians by military courts was contrary to Article 6 § 1. In the present case the Court observed that the Government did not give any overriding reasons as to why the applicant had been tried by a military court. They only highlighted that national law attributed *in abstracto* certain categories of offenses committed by civilian staff working for the Turkish army forces to the competence of military courts. The Court considered that this *in abstracto* qualification placed the applicant, a civilian, at a significant disadvantage compared to citizens trialed by civil courts. The Court underlined the excessive sanction inflicted on the applicant, as a result of the excessive formalism used by the domestic courts. The Court thus concluded that there had been a violation of Article 6 § 1.

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

Saleck Bardi v. Spain (no. 66167/09) (Importance 2) – 24 May 2011 – Violation of Article 8 – Domestic authorities' failure to make appropriate and sufficient efforts to ensure respect for the applicant's right to respect for family life (namely her child's return) and had lacked the requisite promptness

The applicant, a stateless person, lives in the refugee camps in Tindouf (Algeria). In 2002 her nine-year-old daughter Saltana went to Spain for a holiday with a host family organised by a federation of associations of friends of the Sahrawi people. When the child was found to be suffering from health problems, proceedings were initiated to extend her stay in Spain. There was no official decision and the child continued to stay with the host family. In March 2004 the Spanish authorities were informed that the applicant was seeking her child's return. In May 2004 the minors' protection service declared the child abandoned and decided to place her in a reception centre for minors with a view to her transfer to the Tindouf camp. However, in a judgment of September 2005 the family affairs judge of Murcia provisionally awarded custody of Saltana to the Spanish foster family, pending the necessary

research to identify her biological family in order to return the child to them, and to determine whether she had been subjected to ill-treatment in her place of origin. That judgment was given without the applicant being informed about the proceedings in progress. In June 2006 the applicant went to Spain and appeared before the same family affairs judge to obtain her daughter's return. She was granted the right to intervene as a party to the proceedings. In a decision of April 2007 the judge decided to award guardianship of the girl to the foster family, on the ground that she, now aged 15, had expressed her wish to remain with the foster family and said that she had been treated as a slave in the refugee camps. The applicant appealed against that decision. In April 2008 the Audiencia provincial of Murcia dismissed her appeal and confirmed the guardianship awarded to the host family, on the ground that the interest of the child, who had established emotional ties with that family and did not wish to see her mother again, prevailed over that of the applicant.

The applicant complained that she had been deprived of responsibility for her child in proceedings that she regarded as unfair. She said that she was aware that her daughter's return to Algeria was not desirable for her emotional stability, but requested the Court to recognise the shortcomings in the domestic proceedings, so that a situation like hers would not arise again for other Sahrawi mothers.

The Court found that the relationship between the applicant and her daughter was covered by the definition of family life under Article 8, even though they were separated in reality. It also observed that a parent's right to be reunited with his or her child created for States a "positive obligation" to take measures to fulfil that objective. In such a case, where the various interests were difficult to reconcile, the child's interest had to be a primary consideration. The Court noted that the judicial decisions of 2007 and 2008 awarding guardianship to the host family had given sufficient reasoning, taking the child's interest into account. The Court, while its role was not to substitute its own assessment for that of the domestic authorities as to the measures that should have been taken, nevertheless noted a lack of diligence on the part of the Spanish authorities. The responsibility for the duration of the girl's stay in Spain indeed lay with them, on account of the authorities' inactivity and a lack of coordination between the competent services. The passage of time had led to a weakening of the relations between the child and her mother, who she felt had abandoned her, and had contributed decisively to the child's integration into her foster family and her daily life in Murcia. Ultimately, the Spanish authorities had not made appropriate and sufficient efforts to ensure respect for the applicant's right to her child's return and had lacked the requisite promptness for such a case, in violation of Article 8. Under Article 41 (just satisfaction), the Court held that Spain was to pay the applicant 30,000 euros in respect of non-pecuniary damage.

Aydemir v. Turkey (application no. 17811/04) (Importance 3) – 24 May 2011 – Two violations of Article 8 – (i) Unlawful search carried-out in the ground-floor flat occupied primarily by two of the applicants; (ii) lack of an efficient investigation concerning the interference in the first-floor flat occupied primarily by two of the occupants

The case concerned a search conducted in 2001 by police officers and gendarmes at the applicants' home, and at 48 neighbouring addresses, all situated in the vicinity of Aydın Prison. The searches were intended to prevent any assistance being provided to escaping prisoners via a tunnel. These took place without the presence of a judge or a local councillor. During the search of the applicants' home Resul Aydemir ("Resul"), the applicants' close relative, died.

The applicants complained about the death of their relative during the search, the ill-treatment to which they were allegedly subjected on that occasion, and an infringement of their right to respect for their home. They further complained that their case had not been heard within a reasonable time and that they did not have a remedy under Turkish law in respect of that complaint.

The Court noted that it was not disputed that the flat in question had been searched, which amounted to an interference in the right to respect for one's home. In order for such a search to be acceptable under the Convention, it must first of all have a legal basis and pursue a legitimate aim; this had been the case here, as the search had been conducted under the former Turkish Criminal Code, with a view to preventing possible escapes by prisoners. However, the interference must also be based on a "pressing social need" and, in particular, be proportionate to the legitimate aim pursued. On this point, the Court reiterated that the State Parties to the Convention, including Turkey, may consider it necessary to have recourse to measures such as house searches in order to obtain evidence of certain offences. The Court then reviews the relevance and adequacy of the grounds advanced to justify such searches, and compliance with the above-mentioned principle of proportionality. It noted, however, that the search of the Aydemir family's home had not been ordered in the context of a criminal investigation or criminal proceedings against one member of the family. It had not been established, or even alleged, that the applicants had been suspected of any offence. The search conducted at the applicants' home was in fact part of a massive police operation, systematically affecting every home located in the immediate vicinity of the prison. The Court further noted that the

search warrant had been vaguely worded. It provided no information on the reason for the measure or the objects to be sought, and thus granted the police officers wide powers. Yet a search warrant was required to contain a minimum of information allowing for review of whether the officers who executed it had respected the warrant's scope. Finally, the search had been conducted in the absence of a judge or of a local councillor, in violation of Turkish law. In those circumstances, there had been a violation of Article 8 in respect of Muhacır and Süleyman Aydemir. These applicants complained, in particular, that the police had forcibly entered the first-floor flat, which was occupied by the late Resul and Abdullah with their respective families. In spite of their complaint that the police officers had broken open the door, they alleged that no adequate investigation had ever been conducted into the events. The Court noted that the prosecutor had indeed merely gathered statements from the police officers, and accepted them without reservation. He had not submitted this question to further exanimation, which would have indicated a genuine willingness to establish the facts. Nor had the criminal proceedings done so. The Court accordingly found a violation of Article 8 with regard to Ayten and Abdullah Aydemir, on account of the inadequacy of the investigation concerning the interference in the first-floor flat. Under Article 41 (just satisfaction), the Court held that Turkey was to pay Ayten, Abdullah and Süleyman Aydemir 5,000 euros (EUR) each in respect of non-pecuniary damage, and EUR 5,000 jointly to the heirs of Muhacır Aydemir. It must also pay EUR 3,000 to the applicants for costs and expenses.

- **Freedom of expression**

Sabanovic v. Montenegro and Serbia (no. 5995/06) (Importance 2) – 31 May 2011 – Violation of Article 10 – Montenegrin courts should not have convicted director of water supply company for defamation for responding to contaminated drinking water allegations

This is the first case of this kind to be brought against Montenegro. On 6 February 2003 a Montenegrin daily newspaper published an article alleging that the water in the Herceg Novi area was "full of bacteria". The allegation was based on a report which had been drawn up at the request of the Chief State Water Inspector. The applicant, director of a public water supply company and a member of the opposition political party at the time, immediately held a press conference at which he denied the allegations, maintaining that all tap water was filtered and safe for public consumption. He further stated in particular that the water inspector was favouring two private water companies in their bid to develop additional water sources and that he was under orders from the Democratic Party of Socialists, the major partner in the ruling coalition Government at the time. As a result, the water inspector brought defamation proceedings against the applicant and on 4 September 2003 he was found guilty of making statements which were untrue and harmful to the inspector's honour and reputation. He was sentenced to a three month suspended prison sentence. The domestic courts refused the applicant's request to read the newspaper article in which the allegations of contaminated drinking water were made as they considered that it was not relevant and that such a step would only delay the proceedings. That decision was upheld on appeal in November 2005.

The applicant complained about his conviction for defamation on account of the statements he had made at the press conference in February 2003.

Given that the criminal proceedings against the applicant had been conducted entirely by the Montegrin courts, the Court decided to reject the part of his complaint in respect of Serbia. The interference with the applicant's freedom of expression, based on the Criminal Code of the Republic of Montenegro, had been "prescribed by law" and pursued "the legitimate aim" of protecting the reputation of others. However, it was quite understandable that the applicant, as director of a public water supply company, had felt that it was his duty to respond to allegations in the press that drinking water in the Herceg Novi area was contaminated. The main aim when organising the press conference had been to inform the public that their drinking water was filtered and therefore safe for use. His remarks were a robust clarification of a matter of great public interest and were not a gratuitous attack on the water inspector's private life but criticism of him in his official capacity. Indeed, the courts had taken a rather restrictive approach to the matter, having failed to situate his comments in the broader context of the general debate in the press about the quality of drinking water in the area. The Court held that there was little scope for such restrictions on debates of public interest and therefore found that the interference with the applicant's freedom of expression had not been necessary in a democratic society, in violation of Article 10. The Court further noted with concern that the applicant had been given a prison sentence for defamation, a sanction which, even if not actually imposed, the Council of Europe has called upon its members States to abolish without delay. The Court dismissed the applicant's claim for just satisfaction under Article 41 as it had been submitted after the deadline.

- **Protection of property**

Ağnidis v. Turkey (no. 21668/02) (Importance 3) – 24 May 2011 – Just Satisfaction – Turkey has to pay 4 million euros for a breach of inheritance rights concerning property located on the Princes' Islands

The applicants' property is located on the Princes' Islands, an archipelago of nine islands in the Sea of Marmara, to the south-east of Istanbul. According to the Istanbul Court of First Instance, which validated the inheritance in 1987, Apostil Agnidis had himself been the legitimate heir of his father, Yorgi Agnidis, since 1950. In 1994 the Directorate of the Istanbul Legal Service challenged the validity of this inheritance, arguing that Yorgi Agnidis had died without leaving an heir and that the State Treasury was the only successor in title to the property. At the close of proceedings which ended in 2000, the Turkish courts annulled the applicants' certificate of inheritance. They based their decision on the fact that, as Turkish nationals could not acquire real property in Greece by inheritance, the opposite was also impossible, as the "condition of reciprocity" set out in Article 35 of the Land Code was not met. In its Chamber judgment of 23 May 2010, the Court concluded that there had been a violation of Article 1 of Protocol No. 1. It held that it had not been established that, at the relevant time, there was a restriction in Greece preventing Turkish nationals from acquiring a building by inheritance. The decision to annul the certificate of inheritance, based on the condition of reciprocity, had consequently infringed the principle of lawfulness. The Court also found that the question of possible just satisfaction (Article 41), intended to compensate, where appropriate, for any damage arising from the violations found, was not ready for decision and reserved it. This is the issue on which the Court has ruled in today's judgment. Recognising that Ms Ekaterina Agnidis and Evridiki Agnidis had status as heirs, the Court decided that Turkey was to pay them an amount based, in particular, on the market value of the buildings in question in this case, and considered it reasonable to award them 4,000,000 euros (EUR) for all forms of damage. The Court also awarded EUR 11,000 to Ms Ekaterina and Ms Evridiki Agnidis jointly in respect of costs and expenses.

- **Disappearance cases in Chechnya**

Maayevy v. Russia (no. 7964/07) (Importance 3) – 24 May 2011 – Violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicant's husband following his unacknowledged detention by State agents; (ii) Lack of an effective investigation – Violation of Article 3 – The applicants' mental suffering – Violation of Article 5 – Unacknowledged detention of the applicants' son – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

Malika Alikhadzhiyeva v. Russia (no. 37193/08) (Importance 3) – 24 May 2011 – Violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' son following his unacknowledged detention by State agents; (ii) Lack of an effective investigation – Violation of Article 3 – The applicants mental suffering – Violation of Article 5 – Unacknowledged detention of the applicant's husband – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 24 May 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 26 May 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 31 May 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	31 May 2011	Kurdov and Ivanov (no. 16137/04)	No violation of Art. 4 § 1 of Prot. 7	The two sets of proceedings against the applicant (criminal and administrative) did not infringe the	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

		Imp. 2		principle of *non bis in idem*	
Croatia	31 May 2011	Šuput (no. 49905/07) Imp. 3	No violation of Art. 5 § 3	Reasonable length of proceedings	Link
Croatia	31 May 2011	Žugić (no. 3699/08) Imp. 2	No violation of Art. 10	The interference with the applicant's freedom of expression was "necessary in a democratic society"	Link
Italy	24 May 2011	Onorato (no. 26218/06) Imp. 2	Violation of Art. 6 § 1 (fairness)	Lack of access to a court on account of the applicant's inability to bring defamation proceedings against a member of parliament on account of the latter's parliamentary immunity under the Constitution	Link
Latvia	31 May 2011	Birznieks (no. 65025/01) Imp. 2	Three violations of Art. 5 § 1 (for three periods of detention) No violation of Art. 5 § 1 (remaining pre-trial detention) Violation of Art. 5 § 3 Violation of Art. 5 § 4 Violation of Art. 8 Violation of Art. 34	Unlawful detention during three periods of detention Lawful detention during one period of detention Excessive length of pre-trial detention (more than two years and three months) Lack of an effective remedy to challenge the lawfulness of the detention (one period of detention) Monitoring of the applicant's correspondence with the Court	Link
Poland	31 May 2011	Bogusław Krawczak (no. 24205/06) Imp. 2	Violation of Art. 5 § 3 Violation of Art. 8	Excessive length of pre-trial detention (almost four years) Arbitrary application on restriction measures imposed on the applicant's physical contact with his family while in detention	Link
Poland	31 May 2011	Zabłocki (no. 10104/08) Imp. 3 Zawisza (no. 37293/09) Imp. 3	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 (fairness)	Unfairness of lustration proceedings	Link Link
Romania	24 May 2011	Abou Amer (no. 14521/03) Imp. 3	Violation of Art. 8	Domestic authorities' failure to provide the applicant and his family with the minimum degree of protection against arbitrariness on account of the prosecutor's order to deport the first applicant and to ban him from Romania for ten years	Link
Romania	24 May 2011	Ionescu (no. 24916/05) Imp. 3	No violation of Art. 6 § 1 (fairness) Violation of Art. 6 § 1 (length)	The negligence of the applicant in periodically checking the status of the civil proceedings and in indicating another address to the court in case of change is not imputable to the domestic courts Excessive length of proceedings (almost seven years)	Link
the Czech Republic	26 May 2011	Golha (no. 7051/06) Imp. 3	Violation of Art. 6 § 1 (length) No violation of Art. 13	Excessive length of proceedings on division of matrimonial property (almost nineteen years and still pending) The applicant had an effective remedy in respect of the length of proceedings	Link
the United Kingdom	31 May 2011	E.G. (no. 41178/08) Imp. 3	No violation of Art. 3	Absence of real risk of detention or being subjected to ill-treatment if expelled to Sri Lanka	Link
the United Kingdom	31 May 2011	R. and H. (no. 35348/06) Imp. 2	No violation of Art. 8	The reasons given by the domestic courts for the freeing order were relevant and sufficient	Link
Turkey	24 May 2011	Celal Kaplan (no. 16227/06) Imp. 2	Violation of Art. 3	Lack of an effective investigation in respect of ill-treatment in police custody	Link

Turkey	24 May 2011	Sabri Güneş v. (no. 27396/06) Imp. 2	Violation of Art. 6 § 1 (fairness)	Interference with the applicant's right of access to a court on account of the applicant's claim being dismissed as time-barred	Link
Ukraine	26 May 2011	Doroshenko (no. 1328/04) Imp. 3	Violation of Art. 6 § 1 (length) No violation of Art. 2 of Prot. 4	Excessive length of criminal proceedings (more than seven years) The measure imposed on the applicant to not leave his area of residence while he had been subject to the undertaking not to abscond was not disproportionate	Link

3. Repetitive cases

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

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

State	**Date**	**Case Title**	**Conclusion**	**Key words**
Latvia	31 May 2011	Čerņikovs (no. 71071/01) link	Violation of Art. 5 § 3 Violation of Art. 6 § 1 (length)	Excessive length of pre-trial detention (three years and nine months) Excessive length of proceedings (five years and eleven months for three levels of jurisdiction)
Serbia	31 May 2011	Rašković and Milunović (nos. 1789/07 and 28058/07) link	Violation of Art. 6 § 1 (fairness) Violation of Art. 1 of Prot. 1	Delayed enforcement of final judgments in the applicants' favour
Turkey	24 May 2011	Çağlar (no. 11192/05) link	Just satisfaction	Just satisfaction in respect of the judgment of 13 July 2010
Turkey	24 May 2011	Loizou and Others (no. 16682/90) link	Just satisfaction	Just satisfaction in respect of the judgment of 1 March 2010
Turkey	31 May 2011	Ahmet Nuri Tan and Others (no. 18949/05) link	Violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1 (length)	The transfer of ownership of the applicants' land to the State Treasury without compensation Excessive length of proceedings
Turkey	31 May 2011	Keloğlan and Others (nos. 14019/07, 46287/07 and 19387/08) link	Violation of Art. 6 § 1 (fairness)	The applicants' lack of access to the classified documents submitted by the Ministry of Defence to the Supreme Military Administrative Court in support of its decision to expel the applicants from their respective schools

4. Length of proceedings cases

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

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

With respect to the length of non criminal proceedings cases, the reasonableness of the length of proceedings is assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (See for instance Cocchiarella v. Italy [GC],

no. 64886/01, § 68, published in ECHR 2006, and Frydlender v. France [GC], no. 30979/96, § 43, ECHR 2000-VII).

State	Date	Case Title	Link to the judgment
Romania	31 May 2011	Topliceanu and Others (nos. 4756/06, 11941/07 and 27690/07)	Link
Ukraine	31 May 2011	Marutsenko (no. 24959/06)	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 16 to 29 May 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*
Bosnia and Herzegovina	24 May 2011	Topić (no 45282/08) link	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (non-enforcement of a final judgment adopted in the applicant's favour)	Struck out of the list (friendly settlement reached)
Bulgaria	24 May 2011	Katsarska and Others (no 25277/06) link	Alleged violation of Art. 1 of Prot. 1 (alleged arbitrary deprivation of property; domestic courts' alleged incorrect interpretation and application of the relevant domestic provisions on adverse possession)	Partly inadmissible as manifestly ill-founded (concerning the first, second and third applicants' complaints under Art. 1 of Prot.1), partly inadmissible for non-exhaustion of domestic remedies (concerning the fourth applicant)
Bulgaria	24 May 2011	SD Argus-Tsendov, Dzhonov and CO and Stancheva (no 7948/04) link	Alleged violation of Articles 6 and 8 and Art. 1 of Prot. 1 (the domestic authorities' alleged refusal to recognise the applicant company's alleged right to deduct input VAT for 1997)	Struck out of the list (the applicants no longer wished to pursue their application)
Bulgaria	24 May 2011	Dzhan (no 24772/05) link	The applicant complained that his detention pending deportation had been unlawful, arbitrary and unjustified, that he had not been informed promptly of the reasons for his arrest, and that he had not been able to avail himself of speedy proceedings in which to challenge his detention.	Struck out of the list (the applicant no longer wished to pursue his application)
Bulgaria	24 May 2011	Ivatsi (no 28375/06) link	Idem.	Idem.
Croatia	24 May 2011	Jug (no 42697/10) link	Alleged violation of Art. 3 (poor conditions of detention)	Struck out of the list (friendly settlement reached)
Denmark	24 May 2011	Mikkelsen and Christensen (no 22918/08) link	Alleged violation of Art. 10 (the applicants' conviction for having purchased illegal fireworks without permission from the municipality, for their journalistic work)	Inadmissible as manifestly ill-founded (it cannot be said that the applicants' conviction amounted to a disproportionate and hence unjustified restriction of their right to freedom of expression)
France	24 May 2011	Perez Carballo Villar (no 59241/09) link	Alleged violation of Art. 5 § 3 (alleged excessive amount of bail), Art. 3 (domestic authorities' alleged failure to take into consideration the applicant's state of health)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 5 § 3), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)

Hungary	24 May 2011	Seres and Szikora (no 54421/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Italy	24 May 2011	Same (no 8160/11) link	Alleged violation of Art. 3 (alleged risk of being subjected to ill-treatment if expelled to Greece)	Struck out of the list (the applicant no longer wished to pursue his application)
Italy	24 May 2011	Bacuzzi (no 43817/04) link	Alleged violation of Articles 8 and 12 (alleged interference with the applicant's right to respect for private and family life on account of the domestic authorities' imposed three-year delay after a separation before being able to file for divorce), Art. 6 (excessive length of proceedings)	Partly incompatible *ratione personae* (concerning claims under Articles 8 and 12) , partly struck out of the list (concerning the length of separation proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the length of divorce proceedings)
Poland	24 May 2011	Karmazyn (no 33187/05) link	Alleged violation of Art. 3 (poor conditions of detention in Strzelin Prison), Art. 8 (monitoring of the applicant's correspondence), Art. 10 and Art. 17 (alleged persecution for sending complaints to the Court)	Partly struck out of list (unilateral declaration of Government concerning the conditions of the applicant's detention and the monitoring of his correspondence), partly inadmissible as manifestly ill-founded (failure to substantiate complaints concerning the remainder of the application)
Poland	24 May 2011	Zesławski (no 36610/04) link	Alleged violation of Art. 3 (poor conditions of detention in Kielce Remand Centre and Pińczów, Tarnów, Nysa, Nowy Sącz, Nowy Wiśnicz and Strzelce Opolskie Prisons)	Struck out of the list (unilateral declaration of the Government)
Poland	24 May 2011	Wyszyński (no 18461/10) link	Alleged violation of Art. 3 (poor conditions of detention), Art. 6 - unfairness of civil proceedings for compensation against Wronki Prison)	Case reopened after exhaustion of domestic remedies. Partly adjourned (concerning claims under Art. 3), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application
Poland	24 May 2011	Wardziński (no 20769/09) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (excessive length of criminal proceedings), and Articles 1, 5 §§ 1(c) and 5 and 6 § 2 (alleged infringement of the right to being presumed innocent)	Struck out of the list (friendly settlement reached)
Poland	24 May 2011	Mizik (no 47171/09) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Poland	24 May 2011	Miażdżyk (no 5543/10) link	Idem.	Idem.
Serbia	24 May 2011	Vidaković (no 16231/07) link	The applicants complained, without relying on a specific provision of the Convention, about the amount of damages awarded in the applicant's favour in relation to the incident involving his vehicle, as well as the length of those proceedings	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the amount of the damages awarded: the Court reiterated that it's not its function to deal with errors of fact or law allegedly committed by the national courts)
Serbia	24 May 2011	Radin (no 30828/08) link	Alleged violation of Articles 6 and 13 (prolonged non-enforcement of a final domestic judgment rendered in the applicant's favour)	Struck out of the list (friendly settlement reached)
Serbia	24 May 2011	Katalinić (no 34689/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.

the Netherlands	24 May 2011	Afif (no 60915/09) link	Alleged violation of Art. 3 (alleged risk for the applicant and her son to be subjected to ill-treatment if expelled to Somalia; the discontinuation of the provision of shelter and care facilities in the Netherlands forcing the applicant and her son to live in the streets without any means of subsistence, is allegedly contrary to Art. 3 as Kenya and Tanzania do not recognise her as a citizen and as she cannot be expelled to Somalia)	Partly inadmissible as manifestly ill-founded (the applicant cannot claim to be a victim within the meaning of Art. 34 as regards her complaint that treatment in violation of Art. 3 would await them in Somalia as there are no prospects for the effective removal of the applicant and her son from the Netherlands to Somalia), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
the United Kingdom	24 May 2011	Allcock and 106 Others (no 19064/07; 31588/09; 38619/09) link	Alleged violation of Art. 6 § 1 and 8 (the applicants complained about the procedure for the provisional listing of their names in the Protection of Vulnerable Adults list), Art. 13 (lack of an effective remedy)	Partly struck out of the list (it is no longer justified to continue the examination of the complaints in respect of thirty-one applicants), partly adjourned (in respect of the remaining seventy-six applicants' complaints)
Turkey	24 May 2011	Arslan and Others (no 35880/05) link	Alleged violation of Articles 2 and 5 (the applicants complained about their relative's alleged unlawful detention and killing by State agents), Art. 3 (alleged ill-treatment of the applicants' relative and lack of an effective investigation), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Turkey	24 May 2011	Kizanlik and Others (no 21269/07) link	The applicants complained about the excessive length of civil proceedings	Idem.
Turkey	24 May 2011	Çelik (no 43547/06) link	Alleged violation of Art. 3 (alleged ill-treatment during a demonstration) and Art. 5 § 1 (unlawful arrest)	Struck out of the list (the applicant no longer wished to pursue her application)
Turkey	24 May 2011	Küçükoğlu and Küçükşabanoğlu (no 16207/06) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and 1 of Prot. 1	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	24 May 2011	Gulden and Wierniewski (no 41596/05) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Turkey	24 May 2011	Çiftçi and Others (no 28777/05) link	Alleged violation of Art. 6 § 1 and 1 of Prot. 1 (delayed enforcement of administrative decisions in the applicants' favour)	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	24 May 2011	Baris Inan (no 20315/10) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (unilateral declaration of the Government)
Ukraine	24 May 2011	Franko (no 21011/06) link	Alleged violation of Art. 3	Struck out of the list (the applicant no longer wished to pursue his application)
Ukraine	24 May 2011	Majszak (no 38071/06) link	Alleged violation of Art. 6 and Art. 1 of Prot. 1	Idem.
Ukraine	24 May 2011	Marchenko and Others (no 42442/07; 505/08; 20617/08 link	The applicants complained about the excessive length of civil proceedings	Struck out of the list (friendly settlement reached)
Ukraine	24 May 2011	Przhevalskyy (no 12203/04) link	The applicant complained about the unfairness of criminal proceedings and the lack of access to lawyer	Struck out of the list (the applicant no longer wished to pursue his application)
Ukraine	24 May 2011	Demyanets and Others (no 49285/06) link	The applicants complained about the excessive length of civil proceedings	Struck out of the list (friendly settlement reached)

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 30 May 2011: link
- on 6 June 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 30 May 2011 on the Court's Website and selected by the NHRS Unit

The batch of 30 May 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, Finland, France, Georgia, Latvia, Lithuania, Moldova, Poland, the Netherlands, the United Kingdom and Turkey.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
France	12 May 2011	R.J. no 10466/11	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Syria and to Sri Lanka
France	08 may 2011	B.H. no 6840/11	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Algeria
Georgia	12 May 2011	Janelidze no 25395/11	Alleged violations of Art. 3 – (i) Lack of adequate medical treatment in detention; (ii) In view of the applicant's state of health, can her continued detention in Georgian prisons be said to constitute treatment contrary to Article 3?– Alleged violation of Art. 6 § 1 – Unfairness of proceedings
the United Kingdom	12 May 2011	J.L. no 66387/10	Alleged violation of Art. 8 – Alleged Violation of the applicant's right to respect for home on account of the possession proceedings brought against her

Communicated cases published on 06 June 2011 on the Court's Website and selected by the NHRS Unit

The batch of 06 June 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Georgia, Greece, Moldova, Montenegro, Romania, Russia, Sweden, "the former Yugoslav Republic of Macedonia", the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Commu	Case Title	Key Words of questions submitted to the parties

	nicate		
Croatia	17 May 2011	Jurčević no 42418/10	Alleged violation of Art. 3 – Domestic authorities' alleged failure to take the necessary measures to collect all the necessary evidence for the applicant's allegations of rape – Alleged violation of Art. 8 – Alleged humiliating manner in which the applicant was treated by the police and the national judicial authorities after her allegations of rape – Alleged violation of Art. 14 – Discrimination on grounds of sex – Alleged violation of Art. 13 – Lack of an effective remedy
Cyprus	16 May 2011	Zavros no 7292/10	Alleged violation of Art. 1 of Prot. 12 – Alleged discrimination on grounds of sex: The applicant had to serve the full term of military service unlike men with a Greek father and a Greek-Cypriot mother (the applicant's father was Greek-Cypriot and his mother Greek)
Denmark	16 May 2011	F.A.X. no 34718/10	Alleged violation of Art. 3 – The applicant alleged that his return to Greece was a violation of this Article – Alleged violation of Art. 13 – Lack of an effective remedy
Finland	16 May 2011	Pentikäinen no 11882/10	Alleged violation of Art. 10 – Alleged interference with the applicant's right to freedom of expression on account of his arrest while, as a journalist, he was taking photographs of a demonstration
Georgia	20 May 2011	Chkheidze no 10547/06	Alleged violations of Art. 3 (substantive and procedural) – (i) Ill-treatment in police custody; (ii) Lack of an effective investigation – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 5 § 4 – Lack of an effective remedy to challenge the lawfulness of the detention in good time
Romania	19 May 2011	Oprea no 12138/08	Alleged violation of Art. 10 – Alleged interference with the applicant's right to freedom of expression on account of his conviction for delivering a speech about corruption at university level in his capacity as Secretary-General of the European Association of University Teaching Staff
Sweden	18 May 2011	A. A. M. no 68519/10	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Iraq

Part II: The execution of the judgments of the Court

A. New information

The Council of Europe's Committee of Ministers held its 1115 DH "human rights" meeting from 7 to 8 June 2011 (the 1115 DH meeting of the Ministers' deputies).

B. General and consolidated information

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2010 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/Source/Publications/CM_annreport2010_en.pdf

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)

New decision on admissibility (26.05.2011)

The decision on admissibility in the case European Roma and Travellers Forum (ERTF) against France, Complaint No. 64/2011 is public (more information).

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 Norway (01.06.2011)

A delegation of the CPT carried out a periodic visit to Norway from 18 to 27 May 2011. It was the Committee's fifth visit to this country. The delegation followed up a number of issues examined during previous visits, including the fundamental safeguards against ill-treatment offered to persons deprived of their liberty by the police and the conditions of detention of immigration detainees. The delegation also examined in detail the situation of persons subject to preventive detention (forvaring) and of juveniles held in prison establishments. Further, for the first time in Norway, the delegation visited a prison for women. In the course of the visit, the delegation had consultations with Terje Moland PEDERSEN, State Secretary of the Ministry of Justice and the Police, and Tone-Helen TOFTEN, State Secretary of the Ministry of Health and Care Services, as well as with senior officials from the aforementioned ministries and the Ministry of Children, Equality and Social Inclusion. Further, the delegation met with Arne FLIFLET, Parliamentary Ombudsman, and Reidar HJERMANN, Ombudsman for Children. The delegation also held meetings with representatives of the Norwegian Centre for Human Rights, the Norwegian Bar Association, and non-governmental organisations active in areas of concern to the CPT.

C. European Commission against Racism and Intolerance (ECRI)

New ECRI reports on Azerbaijan, Cyprus and Serbia (31.05.2011)

ECRI published on 31 May three new reports on the fight against racism, racial discrimination, xenophobia, anti-semitism and intolerance in Azerbaijan, Cyprus and Serbia. ECRI's Chair, Nils Muiznieks, welcomed positive developments in all three countries, but said that there are still issues of concern. Report on Azerbaijan; Report on Cyprus; Report on Serbia

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

Protection of national minorities: Council of Europe monitoring body publishes report on Italy (01.06.2011)

The Council of Europe Advisory Committee on the FCNM published on 1 June its Third Opinion on Italy, and the government's Comments *(also available in Italian)*. Italy has continued to support the preservation and the development of the linguistic and cultural identity of persons belonging to linguistic minorities. Well-established systems of protection are in place and bilingualism is guaranteed in areas such as the Autonomous Province of Bolzano - South Tyrol and the Aosta Valley. Several other regions or provinces have adopted regional laws for the protection of linguistic minorities. However, persons belonging to linguistic minorities are concerned about the impact of budgetary cuts. While certain measures have been taken by some authorities, the situation of the Roma and Sinti has seriously deteriorated and remains a source of deep concern. In the absence of specific legislation at

national level and of a comprehensive strategy for their protection, these persons continue to face poverty, hostility and systematic discrimination in most sectors. Although only very few Roma and Sinti share a nomadic lifestyle, they continue to be placed in 'camps for nomads', which perpetuates their segregation and marginalisation. The approach of the authorities to the problems faced by the Roma and Sinti, marked by the use of emergency orders and punitive rather than constructive measures, is not in line with the principles of the Framework Convention. Frequent cases of abuse and violence committed against persons belonging to these vulnerable groups by law enforcement officers are a source of deep concern. This requires urgent, firm and effective action on behalf of the authorities at all levels. The Advisory Committee recommends in particular to: Adopt and implement effectively a specific legislative framework and a comprehensive strategy of integration and protection of Roma and Sinti, in consultation with their representatives, and taking adequately into account the differences existing within these communities; Ensure by means of urgent measures adequate living conditions for the Roma and Sinti living in camps and guarantee the Roma and Sinti equal access to housing, employment, education and health care; put an end to the undue use of emergency and security measures in tackling the situation of the Roma and Sinti; Prevent, combat and sanction effectively all forms of discrimination, intolerance, racism and xenophobia, including at institutional level and in political discourse; prevent and combat, while fully respecting the editorial independence of the media, the spread of prejudice and racist language through the media, as well as on the Internet and in sports events.

Sweden: receipt of the third cycle State Report (01.06.2011)

Sweden submitted on 1 June 2011 its third state report in English, pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers.

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)

On-site evaluation visit to Malta completed (29.05-04.06.2011)

MONEYVAL team of evaluators visited Malta from 29 of May to 4 of June 2011 under the fourth evaluation round. The visit was coordinated by the Maltese Financial Intelligence Analysis Unit (FIAU). The team met with Dr. Silvio Camilleri, Chief Justice and other senior members of the judiciary; Dr. Peter Grech, Attorney General and Chairman of the Board of the Financial Intelligence Analysis Unit; Professor Joe V. Bannister, Chairman of Malta Financial Services Authority and Dr. Anton Bartolo in his capacity as Company Registrar and Deputy Chairman of the Board of the FIAU. The team also met with representatives from 24 organisations and agencies including law enforcement bodies, government departments, financial services supervisors, associations and representatives of the private sector. The meetings were held in Attard and Valletta.A key findings document was discussed with the Malta authorities and left with them at the conclusion of the mission. The draft report will now be prepared for review and adoption by MONEYVAL at its 38th Plenary meeting (March 2012). MONEYVAL`s fourth round evaluations are more focussed and primarily follow up the recommendations made in the 3rd round. Evaluation teams in the fourth round examine key, core and other important Financial Action Task Force (FATF) Recommendations, as well as Recommendations which were previously rated "non compliant" or "partially compliant". Evaluations are complemented by issues linked to the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing in accordance with MONEYVAL's terms of reference.

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

1st Evaluation Round: GRETA visits Romania (01.06.2011)

A delegation of the GRETA carried out a country visit to Romania from 24-27 May 2011, in order to prepare its first monitoring report on the fight against human trafficking in this country. (read more)

Part IV: The inter-governmental work

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

25 May 2011

The United Kingdom ratified the Convention on Cybercrime (ETS No. 185).

27 May 2011

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

1 June 2011

Serbia ratified the Third Additional Protocol to the European Convention on Extradition (CETS No. 209).

Entry into force of the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199).

Entry into force of 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/ResCPT(2011)2E / 25 May 2011: Election of members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in respect of Azerbaijan, the Czech Republic, Finland, Malta, Poland, the Russian Federation and the Slovak Republic (Adopted by the Committee of Ministers on 25 May 2011 at the 1114th meeting of the Ministers' Deputies)

CM/Rec(2011)5E / 25 May 2011: Recommendation of the Committee of Ministers to member States on reducing the risk of vulnerability of elderly migrants and improving their welfare (Adopted by the Committee of Ministers on 25 May 2011 at the 1114th meeting of the Ministers' Deputies)

CM/RecChL(2011)2E / 25 May 2011: Recommendation of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Germany (Adopted by the Committee of Ministers on 25 May 2011 at the 1114th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Conference in Kyiv on combating violence against children (25.05.2011)

"Holistic strategies are needed to combat violence against children in Europe" - this was the main message of the international conference organised under the Ukrainian Chairmanship of the Committee of Ministers on 24 and 25 May in Kyiv. Bringing together around 200 participants from twenty three countries, the two-day conference discussed ways to implement integrated national strategies to protect children’s rights and eliminate violence against children.

The Council of Europe calls on European governments to strengthen measures to promote the rights and full participation of people with disabilities in society (31.05.2011)

On 30 and 31 May 2011, the Council of Europe organised a conference in Odessa which highlighted best practice in seeking to improve the quality of life of people with disabilities and their integration and active participation in society and to strengthen equal opportunities and non-discrimination. The conference, which was organised as part of the Ukrainian chairmanship of the Committee of Ministers of the Council of Europe in conjunction with the Ukrainian Ministry of Social Affairs and the National Assembly of People with Disabilities, aimed to support Ukraine in implementing an effective policy on disability, but also to contribute to the 2nd component of the Council of Europe Disability Action Plan (2006-2015).

Part V: The parliamentary work

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

Resolution 1816: **Health hazards of heavy metals and other metals**

Recommendation 1971: **The impact of the Eastern Partnership of the European Union on governance and economic development in eastern Europe**

Resolution 1814: **Reforms of the Common Fisheries Policy and the Common Agricultural Policy**

Resolution 1813: **Promoting microcredit for a more social economy**

Resolution 1812: **The impact of the Eastern Partnership of the European Union on governance and economic development in eastern Europe**

Resolution 1815: **The potential dangers of electromagnetic fields and their effect on the environment**

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

- *Countries*

PACE rapporteurs concerned about reports of excessive use of force in Tbilisi protest breakup (26.05.2011)

PACE co-rapporteurs for Georgia, Kastriot Islami (Albania, SOC) and Michael Aastrup Jensen (Denmark, ALDE) expressed their concern about reports of disproportionate and excessive use of force by the police during the breakup of the protest in central Tbilision 25 May. The rapporteurs do not put into question the apparent legitimate basis for the authorities' decision to disperse the protesters, given the fact that the Independence Day celebrations were planned on Rustavelli Avenue and that the protesters reportedly refused to relocate to an alternative location offered by the municipal authorities. However, they expressed their concern about numerous reports that the police used disproportionate and excessive force to break up the protests. "The authorities should fully, credibly and transparently investigate these reports and present their findings to the public within a reasonable timeframe. In the meanwhile we call upon all sides to remain calm and not to further escalate the tense situation," said the two co-rapporteurs.

PACE co-rapporteurs welcome amnesty in Armenia (26.05.2011)

PACE co-rapporteurs for Armenia, John Prescott (United Kingdom, SOC) and Alex Fischer (Germany, EPP/CD), welcomed the general amnesty that was adopted by the parliament on proposal of the President of Armenia. The rapporteurs noted that this amnesty will result in the release of all persons that are still in prison in relation to the events of March 2008. Mr Prescott and Mr Fischer intend to visit Armenia this summer for the preparation of their report on the Functioning of Democratic Institutions that they will present to the Assembly in October 2011.

PACE President: A lasting and comprehensive solution for a peaceful and united Cyprus (27.05.2011)

Addressing the 2nd Alumni Meeting of the European Forum Cyprus, PACE President called on 27 May for a lasting and comprehensive solution for a peaceful and united Cyprus, which would guarantee the legitimate rights of both Greek and Turkish Cypriots, in full compliance with the values and principles of the Council of Europe. "I have called on political leaders on both sides of the island to multiply bi-communal activities. I have also stressed that the Council of Europe and its Parliamentary Assembly could make a useful contribution through promoting people-to-people contacts. These are messages that I shall also convey to the new authorities in Nicosia following the elections that have

just taken place", Mr Cavusoglu added. The Forum's main objective is to strengthen the reconciliation and confidence-building process in Cyprus through civil society. This project, jointly supported by the Council of Europe and the European Commission brings together young leaders from the two communities of Cyprus. Speech

Serbia: PACE co-rapporteur welcomes progress made in implementing Council of Europe standards (27.05.2011)

PACE co-rapporteur on the honouring of obligations and commitments by Serbia, Davit Harutyunyan (Armenia, EDG welcomed the progress made by Serbian authorities in implementing PACE Resolution 1661 (2009) by abolishing blank resignations, amending the system of allocation of seats in parliament and ensuring a better access of women to elected positions in parliament. The Parliamentary Assembly will further monitor the progress made in fulfilling the remaining commitments. A report on Serbia should be presented early in 2012 to PACE. Resolution 1661 (2009)

Indrek Saar appointed as monitoring co-rapporteur for Serbia (31.05.2011)

Indrek Saar (Estonia, SOC) has been appointed as a co-rapporteur for PACE's monitoring of Serbia, to replace Sinikka Hurskainen (Finland, SOC). He will work alongside the existing co-rapporteur Davit Harutyunyan (Armenia, EDG). Serbia has been subject to the Assembly's monitoring procedure – which involves regular visits to the country, dialogue with the authorities and periodic Assembly debates – since it joined the Council of Europe in 2003.

Grigore Petrenco appointed as monitoring co-rapporteur for Albania (31.05.2011)

Grigore Petrenco (Moldova, UEL) has been appointed as a co-rapporteur for PACE's monitoring of Albania, to replace Jaako Laakso (Finland, UEL), who leaves this post after more than three years. He will work alongside the existing co-rapporteur Thomáš Jirsa (Czech Republic, EDG). Albania has been subject to the Assembly's monitoring procedure – which involves regular visits to the country, dialogue with the authorities and periodic Assembly debates – since it joined the Council of Europe in 1995.

Ukraine: PACE co-rapporteurs welcome constitutional changes but express concern about electoral reform (01.06.2011)

PACE rapporteurs for the honouring of commitments by Ukraine, Mailis Reps (Estonia, ALDE) and Marietta de Pourbaix-Lundin (Sweden, EPP/CD), welcomed the authorities "considerable efforts" and "political will" to honour their accession obligations to the Council of Europe. "The initiation of a profound constitutional reform process should be welcomed in this context", they underline in an information note. However, "developments with regard to electoral reform are of serious concern", especially in the context of the upcoming parliamentary elections in 2012. Information note

Minister acknowledges Greece's serious problems with irregular migration, pledges to handle the issue 'with sensitivity and responsibility' (01.06.2011)

Christos Papoutsis, Greece's Minister for Citizen Protection, has acknowledged his country's "serious problems" with flows of irregular migrants, with huge implications for Greek society and economy – but pledged to handle them "with sensitivity and responsibility". The Minister pointed out that 132,000 irregular immigrants were arrested in 2010 alone, the equivalent of a middle-sized Greek town, with up to 300 arriving every day. He stressed that the Hellenic Coastguard had shown a "high level of responsibility" in dealing with migrants arriving by sea – including rescuing many migrants who appeared to jump into the sea to oblige their rescue. On a diplomatic level, the Minister said Greece was continuing consultations for readmission agreements with third states, and revision of the Dublin II Regulations, which was "of the utmost political importance". He also called for expanded powers for the EU's border agency FRONTEX, a co-ordinated policy on repatriation, and maintaining Schengen to boost security at the EU's external borders.

- *Themes*

National parliaments: key players for strengthening protection of children,' according to PACE Vice-President Ivan Popescu (24.05.2011)

"National parliaments should play a key role when it comes to strengthening protection of children and prevention of all forms of violence against them," Ivan Popescu (Ukraine, SOC), Vice-President of PACE, said on 24 May at the opening of a conference in Kyiv on combating violence against children. He added that it was up to the parliaments to go ahead with reinforcing national legislation and introducing the highest standards of protection. Mr Popescu recalled the support of the PACE for the Council of Europe "ONE in FIVE" campaign to raise awareness about issues relating to violence and sexual exploitation of children. The main tool for disseminating the messages of this campaign is a network of contact parliamentarians who meet at every PACE plenary session in Strasbourg. He also encouraged the participants to call upon their respective governments and parliaments to sign and ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. This international conference was organised in the framework of the Ukrainian Chairmanship of the Committee of Ministers of the Council of Europe, in co-operation with the Ukrainian State Service for Youth and Sports, the UN Secretary-General's Special Representative on Violence against Children, and Unicef. Speech by Ivan Popescu; Conference programme

PACE delegation in Lampedusa: Europe must 'share, not shirk, responsibility' for arrivals (25.05.2011)

Europe must share, not shirk, responsibility for the large number of refugees, asylum seekers and migrants arriving by boat to the island of Lampedusa, a five-member delegation from the Committee on Migration, Refugees and Population of PACE has declared. The delegation, which visited reception centres on Lampedusa and met those involved in managing the said it had been impressed by the "commitment of those working to rescue and receive "boat people". The delegation said reception facilities on Lampedusa were inadequate for longer stays and that transfers to better-equipped centres elsewhere in Italy should be carried out within days. The delegation said it had been told that all measures have been taken to increase the capacity for transfers off the island. The delegation concluded that Europe must try to protect asylum seekers and refugees in a way that they are not forced to risk their lives first.

All Council of Europe member States should share responsibility for refugees arriving on Europe's southern shores (01.06.2011)

All Council of Europe member States have a "moral duty" to share responsibility with frontline Mediterranean states for handling asylum-seekers and refugees arriving on Europe's southern shores, PACE's Migration Committee has said. In a draft resolution adopted in Corfu, based on a report by Christopher Chope (United Kingdom, EDG), the committee said the overall numbers arriving "should not pose an insurmountable problem for Europe as a whole". They were only a fraction of the numbers that have so far been taken in by North African countries neighbouring Libya, the parliamentarians pointed out. In a separate report by Arcadio Diaz de Tejera (Spain, SOC), also approved on 1 June, the committee expressed its deep concern at some of the measures taken to deal with "boat people" arriving from North Africa. States have a clear moral and legal obligation to save persons in distress, and should rigorously apply international law, the committee pointed out.

PACE welcomes EU's Eastern Partnership, seeks greater synergies (27.05.2011)

PACE welcomed the EU's Eastern Partnership initiative, describing it as a "major opportunity" for the six countries involved (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) to achieve reform and greater prosperity through enhanced links with the European Union. Adopting a resolution based on the report by Andrea Rigoni (Italy, ALDE) during its Standing Committee meeting in Kyiv, the Assembly welcomed the launching of a series of cooperation projects under the joint Eastern Partnership Facility of the Council of Europe and the EU. The aim is to help the above mentioned countries to move closer towards Council of Europe and EU standards. Adopted recommendation; Adopted resolution

Belarus: PACE Political Affairs Committee condemns the prosecution of political opponents (31.05.2011)

.Situation in Belarus: information note

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

A. Country work

Spain should build on its good practices to improve the integration of Roma people (01.06.2011)

"Over recent years, Spain has adopted constructive programmes to foster Roma integration. They should be consolidated and further developed, in particular as concerns access to employment, housing and education" said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing on 1 June a letter addressed to the Minister of Health, Social Policy and Equality of Spain, Leire Pajín. The letter follows up to the Commissioner's visit to Spain from 4 to 6 April 2011. (Read the letter and the reply of the Minister)

B. Thematic work

Human Rights Defenders in Belarus are severely persecuted (25.05.2011)

"In Belarus, the crackdown on opposition politicians, civil society groups, human rights defenders and media continues. While no less than seven hundred demonstrators were arrested in the evening after the elections of 19 December, several of them have now been brought to court, have faced unsubstantiated charges and received extreme sentences." In a Human Rights Comment, published today, the Commissioner writes that it is important that the fate of the Belarusian people is not forgotten, and that we extend constructive support to civil society in this European country. Read the Comment

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)

Human rights course for Belarus students, Vilnius (23-27.05.2011)

Second and third year law students from the European Humanities University (Vilnius, Lithuania) underwent an intensive one-week course on the European Convention on Human Rights (ECHR). At the end of this course, the students were able to discuss the main guarantees set by the ECHR in reference to key Strasbourg case law, apply such case law to problems, carry out basic research using the ECHR and will have successfully completed a group-based mooting exercise. The course was carried out by graduates from the Glasgow University, under the supervision of Professor Jim Murdoch. The students, all from Belarus, had the opportunity to see how the ECHR applies in practice in areas such as the expulsion of migrants, the protection of privacy of public figures, or the presumption of innocence. This human rights course was part of the support provided to the civil society of Belarus with the aim to prepare young generations for the time when their country will fulfil the criteria to join the Council of Europe.

Multilateral meeting on improving detention conditions and health care in prisons, Strasbourg (24-25.05.2011)

The meeting on improving detention conditions and health care in prisons was organised within the multilateral co-operation activities of the Council of Europe in the field of prisons, for participants from a number of member States which are currently in the process of working on or reviewing their policies on the above-mentioned issues. The aim of the meeting was to share experiences of good practices regarding detention conditions and health care in prisons among the participating countries. The meeting aimed also to discuss best ways for applying the Council of Europe and CPT standards in the prison practice and the Recommendations of the Committee of Ministers of the Council of Europe. The European NPM Project was introduced and explained to the participants in light of its increasing medical and healthcare focus and potential synergies with NPM work were explored.

Workshop on "The role of NHRSs in protecting and promoting the rights of people with disabilities", Kyiv (24-25.05.2011)

Hosted by the Ukrainian Parliamentary Commissioner for Human Rights in the framework of the Peer-to-Peer II Project this thematic workshop for the attention of specialised staff from 28 ombudsman offices and national human rights commissions/institutions discussed universal design, the participation of people with disabilities in political and public life as well as means of supervision and redress in case of violations of their rights. Programme (en | ru | sr); Outline Paper (en | ru | sr)

News from the Ombudsman of Ukraine (24.06.2011)

On 6 July 2011 the Office of the Ombudsman of Ukraine has informed us that “a cassation appeal of the Ombudsman of Ukraine and the representative of the Commissioner for Human Rights against the decision of the Odessa Administrative Court of Appeal of 17 December 2010, which revoked the decision of the Kherson Regional Administrative Court of 19 February 2009 and sustained the suit of Mr. Shapovalov, was pending at the time of the publication of the information” (cf. this information has been published in issue n°60 of the Regular Select ive Information Flow of 15 April 2011).

New developments of the case have been presented by the Ombudsman of Ukraine: “**The Board of Judges of the Supreme Administrative Court of Ukraine by its decree of 19 May 2011 annulled the mentioned decision of the Odessa Administrative Court of Appeal of 17 December 2010 (which revoked the decision of the Kherson regional Administrative Court of 19 February 2009 and sustained the suit of Mr. Shapovalov) and upheld the decision of the Kherson regional Administrative Court of 19 February 2009. This decree of the Supreme Administrative Court of Ukraine came into force immediately upon announcement and may not be appealed. Thus, Mr. Shapovalov’s administrative suit against the Ombudsman of Ukraine and the Representative of**

the Ombudsman of Ukraine under the laws of Ukraine "on information" and "on the State statistics" was finally dismissed."

"Training-of-Trainers" (ToT) session for judges and prosecutors, Belgrade (30.05-01.06.2011)

The Directorate General of Human Rights and Legal Affairs of the Council of Europe, Justice Reform Unit organised a "Training-of-Trainers" (ToT) session for the judges and prosecutors from Serbia on the European Convention on Human Rights (ECHR) in Belgrade, Serbia, in the period from 30 May to 1 June 2011. The training was organised for a group of judges and prosecutors from Serbia who were already trained on the European Convention on Human Rights (ECHR) in the past, thus, they were familiar with the key ECHR principles and case law. The working session consisted of training for the group of approximately 20 judges - trainers, who will be offered the advanced knowledge in order to be able to disseminate it at future training sessions in Serbia. This ToT will be a three – day training session and will be conducted by three experienced international consultants.

International Conference on Developing Effective Complaints Systems in Line with European Standards, Kyiv (02-03.06.2011)

The Council of Europe in cooperation with the Kharkiv Institute for Social Researches (Ukraine) within the framework of the European Union/Council of Europe Joint Programme "Combating Ill-treatment and Impunity" organised the International Conference on Developing Effective Complaints Systems in Line with European Standards. The Conference was held in Kyiv in Hotel "Rus", 4 Hospitalna Street. The Conference aimed to explore the trends, challenges, as well as various practical aspects of the development of the regulatory frameworks and institutional/operational systems for the effective investigation of ill-treatment and their conformity to European standards. The leading international and national experts, representatives of Offices of the Prosecutors General, Ministries of Interior, Academies of Justice, Prosecutors' Training Centres, Police Academies, supervisory, investigative and complaints handling structures, executive, judicial and legislative institutions, Ombudsman institutions, and NGOs participated in the Conference. The participants represented five beneficiary countries of the Joint Programme: Ukraine, Moldova, Armenia, Azerbaijan and Georgia. The welcome speeches will be made by Mr Vladimir Ristovski, Ambassador, Representative of the Secretary General of the Council of Europe on the Coordination of the Council of Europe Cooperation Programmes/Head of the Council of Europe Office in Kyiv; Mr Artashes Melikyan, Head of Unit, Judiciary Division, Legal and Human Rights Capacity Building Department, Directorate General of Human Rights and Legal Affairs, Council of Europe; Ms Valeria Lutkovska, the Government Agent of Ukraine at the European Court of Human Rights; and Mr Denys Kobzin, Director, Kharkiv Institute for Social Researches. Agenda

ECHR Seminar for Judges Legal Assistants, Tbilisi (04-05.06.2011)

The Project "Promotion of Judicial Reform, Human and Minority Rights in Georgia in accordance with Council of Europe Standards" organised a seminar for a group of judges and legal assistants. The seminar was organised in co-operation with the High School of Justice of Georgia and took place 4-5 June 2011 in Tbilisi. The seminar focused on the right to fair trial and to liberty and security under ECHR. 25 participants of the seminar learnt the ECHR substantive provisions and their domestic application in civil and criminal proceedings, as well as the relevant standard-setting case-law of the European Court of Human Rights. The seminar is a part of the series of training sessions the project implements to strengthen the capacity and quality of training of the High School of Justice.