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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. 139 (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 March 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**

Alikaj and Others v. Italy (no. 47357/08) (Importance 2) – 29 March 2011 – Two violations of Article 2 (substantive and procedural) – (i) Domestic authorities' failure to take sufficient precautions to protect the applicants' relative's life during a police pursuit – (ii) Lack of an effective investigation

The case concerned the death of a young man who was shot and killed by a police officer when he was being pursued by the police after resisting arrest.

The applicants complained that their family member had died as a result of an excessive use of force by the police and that there had been shortcomings in the investigation into the incident, in particular the involvement of colleagues of the accused officer. The applicants further complained of the refusal by the Assize Court to admit experts' reports obtained by the civil party in evidence at the trial and to examine certain witnesses.

The Court recalled that the use of lethal force by the police could be justified only when it was "absolutely necessary". It was for the State to regulate precisely the conditions in which its agents could use force. In the present case, the Court noted that the police officers did not know that the vehicle in which the youths were travelling had been stolen, because they stopped it for an ordinary check. As the absconding youths were not armed and their behaviour did not represent a threat to the police, there was no reason for the officers to assume that they were dangerous. The Court accorded

particular weight to the Assize Court's findings that the police officer had been reckless to pursue the youths on slippery ground holding a gun and ready to pull the trigger. The police officer had thus not taken all sufficient precautions to protect the applicants' relative's life. In addition to that imprudent conduct, the Court noted the lack of regulation of the use of weapons by the Italian police. Accordingly, there had been a violation of Article 2. The Court further recalled that Article 2 required of the State that it punish violations of the right to life and thus that an effective official investigation be carried out whenever the use of force led to death. The Court observed that in the event of investigations into homicides committed by agents of the State it was necessary for the investigators to be independent of the individuals involved in the incident. In the present case, the initial acts such as the forensic examination of the scene, the search for cartridge cases and the verification of the police officers' weapons, had been entrusted to officers belonging to the same unit as the police officer having shot the applicants' relative, including his superior. The public prosecutor's subsequent intervention in the supervision of the investigation had not been sufficient to remedy that lack of independence. In view of the promptness and reasonable expedition required of the authorities in such a context, the application of the time bar fell within the category of "measures" that the Court regarded as inadmissible, because they had the effect of preventing punishment. The Assize Court, 11 years after the incident, had granted a discharge because the charges in respect of the applicants' relative's death had become time-barred, thus making it impossible for the court to sentence the police officer. In addition, no disciplinary measures had ever been taken against him. Far from being rigorous, the criminal-law system as applied in this case had not been sufficiently dissuasive to prevent effectively illegal acts of the type complained of by the applicants and had not afforded them appropriate redress for the violation of the right to life of their family member. Accordingly, there had been a second violation of Article 2. Under Article 41 (just satisfaction), the Court held that Italy was to pay the applicants 5,000 euros (EUR) jointly in respect of pecuniary damage. It also had to pay Antoneta Alikaj and Bejko Alikaj EUR 50,000 each and the other two applicants EUR 15,000 each in respect of non-pecuniary damage. Lastly, Italy was required to pay the applicants EUR 20,000 jointly for costs and expenses.

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

Nowak v. Ukraine (no. 60846/10) (Importance 2) – 31 March 2011 – Two violations of Article 3 (substantive and procedural) – (i) Ill-treatment in police custody – (ii) Lack of an effective investigation – Violation of Article 5 §§ 1, 2 and 4 – Unlawful detention – Failure to inform the applicant promptly, in a language he understood, of the reasons for his arrest – Lack of an effective remedy to challenge the lawfulness of the detention – Violation of Article 1 of Protocol No. 7 – The expulsion decision was served on the applicant on the date of his departure, in a language he did not understand, preventing him from being represented or from submitting any reasons against his expulsion

The applicant is a Polish national. In January 2004, the applicant left Poland for Ukraine and informed the Polish authorities where he could be contacted, as criminal proceedings against him were pending. In 2005, he was arrested in Ukraine and was told that he was an "international thief". According to his submissions, the police officers severely beat him during the subsequent questioning and extinguished cigarettes and matches on his wrist and forearm. After four days of police custody, he was served with a decision to expel him - although his residence permit was valid until May 2005 - as he was wanted by the Polish authorities on a theft charge. Upon his removal there, two doctors who treated him recorded that he had a number of cigarette burns, abrasions and a broken tooth. The applicant complained of his alleged ill-treatment to the Polish district prosecutor, who sent the documents relating to his allegations to the Lviv regional prosecutor's office. A compensation claim he lodged against the Ukrainian police was rejected by the Polish regional court for lack of jurisdiction.

The applicant complained that the Ukrainian police had mistreated him and that there had been no investigation of that crime. He also alleged that his detention was unlawful and that, not informed of the reasons for his arrest, he was unable to challenge it. Lastly, he complained that the decision to expel him was made in a language he did not understand and without legal representation.

Article 3

While the applicant had not been in a position to present any direct independent evidence capable of confirming his allegation that his injuries were caused by the Ukrainian police officers, the Court considered that, viewed cumulatively, the medical evidence, his statements, the undisputed fact of his detention at Lviv police station and the lack of any plausible alternative explanation as to the origin of the injuries, gave rise to a reasonable suspicion that the injuries had been caused by the police. The Court thus considered that the applicant had sustained the injuries as a result of inhuman and degrading treatment, in violation of Article 3. While the applicant, acting through the Polish authorities, had lodged a complaint with the prosecuting authorities of Ukraine that he had been ill-treated, his

allegations had not been investigated. The Court noted that without any outcome of the main criminal proceedings he could not have effective recourse to these remedies, since in practice a civil claim for compensation would not be examined prior to a final determination of the facts in criminal proceedings. Accordingly, there had been a breach of Article 3 under its procedural limb.

Article 5

The Ukrainian Government had not submitted any arguments as to the possible grounds for the applicant's detention. The police decision had noted that the fact that the applicant was wanted by the Polish law-enforcement authorities was one of the reasons for his deportation, which suggested that he had in fact been extradited under the pretext of deportation. In the absence of any dispute by the Government, the Court accepted that he had been detained as he described. The Court concluded that the detention had been arbitrary and not based on law, in violation of Article 5 § 1. The reasons the applicant had been given for his arrest, that he was an "international thief", did not correspond to the deportation order. The Government had not demonstrated that the applicant had had any effective means of raising his complaint while in detention or of claiming compensation afterwards. There had accordingly been a violation of Article 5 § 2, providing for the right of a detainee to be "informed promptly, in a language which he understands, of the reasons for his arrest". The Court also found a violation of Article 5 § 4, providing for the right of a detainee to be "entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court", as the Government had failed to demonstrate that the applicant had at his disposal any procedure by which the lawfulness of his detention could have been examined by a court.

Article 1 of Protocol No. 7

Given that the applicant's residence permit had still been valid at the time he was expelled, he had been an "alien lawfully resident" in Ukraine for the purpose of Article 1 of Protocol No. 7. The expulsion decision had been served on him on the date of his departure, in a language he did not understand and in circumstances which prevented him from being represented or submitting any reasons against his expulsion, in violation of the safeguards provided by Article 1 of Protocol No. 7.

Article 41

Under Article 41 (just satisfaction), the Court held that Ukraine was to pay the applicant 16,000 euros (EUR) in respect of non-pecuniary damage.

Nikolay Fedorov v. Russia (no. 10393/04) (Importance 3) – 5 April 2011 – Two violations of Article 3 (substantive and procedural) – (i) Ill-treatment by police officers – (ii) Lack of an effective investigation

The case concerned the ill-treatment by the police of a man suspected of armed robbery and the failure of the authorities to carry out an effective investigation into his related complaints.

The applicant complained that he had been ill-treated by the police on 20 June 2003 and that the investigation into his complaint has not been effective.

The Court noted that the parties agreed that the applicant had been brought on 20 June 2003 to the temporary detention centre in good health. The medical report of the following day had suggested that he had sustained several injuries including a brain contusion. While those injuries were not considered health damage by Russian standards, the Court found that they were sufficiently serious to be examined under Article 3. Both the Government and the applicant agreed that he had disobeyed an order by a public official. The national authorities had further established that he had resisted attempts to take him into the cell and had insulted and grabbed the officers by their uniforms. Some measures might, therefore, have been necessary to prevent further disruption and to calm the applicant down. However, the Court recalled that any recourse to physical force which was not made strictly necessary by the conduct of the detainee diminished human dignity and was in principle an infringement of Article 3. The applicant had described in detail in his complaint the way in which he had been ill-treated. The decisions not to prosecute had concluded that the police officers had used lawful force which had been justified in the circumstances and that the applicant had hurt himself as a sign of protest against having to stay in the cell assigned to him. However, given that the authorities had not provided a satisfactory and convincing explanation to show that some of the injuries had been self-inflicted, the Court concluded that those injuries had resulted from the use of force against him. There had been nothing to show that the force used by the authorities had been necessary in the circumstances. There had therefore been a violation of Article 3. An inquiry had been opened promptly into the applicant's complaints. However, the first medical expert report carried out on 21 June 2003 had not been adequate because it had not explained whether the injuries could have been caused in the circumstances described by the police officers or by the applicant. In addition, several important investigative steps had not been taken at all, such as questioning of medical staff or of other detainees

who had been present at the time and place of the events, or checking the possible source of the applicant's complaints related to his brain contusion. The Court thus found that the investigation into the applicant's complaints had been ineffective, in violation of Article 3. Under Article 41, the Court held that Russia was to pay the applicant 9,000 euros (EUR) in respect of non-pecuniary damage.

Sarigiannis v. Italy (no. 14569/05) (Importance 2) – 5 April 2011 – No violation of Article 5 § 1 – A fair balance had been struck between the need to secure the immediate fulfilment of the applicants' obligation to disclose their identity and the enjoyment of their right to liberty – Violation of Article 3 – Disproportionate use of police force during an identity check at an airport

The case concerned the detention and alleged ill-treatment of two French nationals during an identity check by the revenue police at Rome airport.

The applicants complained that they had been unlawfully detained and ill-treated during an identity check by the revenue police at Rome airport.

Article 5 § 1

The Court noted that the applicants did not deny that they had objected to the identity check, contending simply that it had been discriminatory and unlawful. Their detention had had a basis in Italian law, which prescribed an obligation to disclose one's identity and provided for the possibility of detaining on police premises anyone who failed to comply with that obligation. They had been detained with a view to securing the fulfilment of an obligation prescribed by law within the meaning of Article 5 § 1 (b). The Court had held in previous cases that the obligation to cooperate with the police and to supply one's identity, even in the absence of any suspicion of having committed an offence, was a sufficiently "concrete and specific" obligation to satisfy the requirements of a deprivation of liberty. The Court considered that the short duration of the applicants' detention on police premises and the circumstances of the case prompted the conclusion that a fair balance had been struck between the need to secure the immediate fulfilment of their obligation to disclose their identity and the enjoyment of their right to liberty. Accordingly, there had been no violation of Article 5 § 1.

Article 3

The Court recalled that although Article 3 did not prohibit the use of force by police officers when stopping and questioning people, any force used had to remain proportionate and necessary in the circumstances. The Government did not deny that the police officers had used force to restrain the applicants, or that the applicants' injuries had been sustained while they were being held on police premises. However, they denied that the injuries had been sufficiently serious to fall within the scope of Article 3. The Court considered that the medical certificates showed that the applicants had been subjected to treatment exceeding the Article 3 threshold. The applicants had not been known to the police, and although the first applicant had been uncooperative, his behaviour when stopped by the police had not been violent or disproportionate. The Court, being aware that police officers had also been injured during the incident, was prepared to accept that it had been necessary to exert a measure of duress to prevent the situation from degenerating. However, even assuming that such duress had to a certain extent been "necessary" in view of the applicants' aggressive behaviour, the Court was not satisfied that it had been "proportionate". It noted that four police officers had attempted to restrain the two applicants and that the authorities had not accounted for the many head and facial injuries suffered by the father and son, who had been held in separate rooms despite that fact that, as foreigners, they had experienced linguistic difficulties. Furthermore, throughout this time the first applicant's wife and her under-age daughter, who had been prevented from entering the office, had been in a state of understandable anxiety, having no news of their relatives. That state of affairs had been such as to cause the applicants physical and mental suffering and to arouse in them feelings of fear, anguish and inferiority capable of humiliating and debasing them. The treatment to which the applicants had been subjected had therefore been inhuman and degrading, in breach of Article 3.

Article 41

Since the applicants did not submit a claim for just satisfaction, the Court considered that it was unnecessary to make an award to them on that account.

Toumi v. Italy (no. 25716/09) (Importance 2) – 5 April 2011 – Violation of Article 3 – Removal of a terrorist from Italy to Tunisia notwithstanding the Court's indications and the risk of ill-treatment – Violation of Article 34 – Hindrance of the effective exercise by the applicant of his right of individual petition, which had been nullified by his deportation

The case concerned the deportation to Tunisia in 2009 of an individual convicted of terrorist offences, despite an indication from the Court to the effect that execution of the measure should be stayed so as not to deprive the application pending before the Court of any useful effect. At the time of the applicant's removal, the Court had already found violations in similar cases[*].

The applicant complained about his deportation to Tunisia and about the Italian Government's failure to comply with the interim measure indicated by the Court.

Article 3

The Court recalled that a deportation by a Contracting State could engage the responsibility of that State under the Convention where substantial grounds had been shown for believing that the person in question, if deported, would face a real risk of being subjected to treatment contrary to Article 3 in the receiving country. In these circumstances, Article 3 dictated that the person concerned should not be expelled to that country. Basing its findings on the conclusions it had reached in a previous case, confirmed by Amnesty International's 2008 report on Tunisia, the Court considered that substantial grounds had been shown for believing that the applicant faced a real risk of being subjected to treatment contrary to Article 3 in Tunisia. The Court first noted that the Tunisian authorities had substantiated their assurances, but observed that reliable international sources indicated that allegations of ill-treatment were not investigated by the authorities in Tunisia, who were reluctant to cooperate with independent human rights organisations. Accordingly, the Court could not share the view of the Italian Government that the assurances given had offered the applicant effective protection against the serious risk of being subjected to treatment contrary to Article 3. The Court further reiterated that the existence of a risk of ill-treatment had to be assessed primarily with reference to those facts which were known or ought to have been known to the State in question at the time of the deportation. The Court was not precluded, however, from having regard to information which came to light subsequently and which might be of value in confirming or refuting the assessment made by the State concerned as to whether an applicant's fears were well-founded. The Court noted that the parties disagreed as to events following the applicant's deportation. In any event, regard being had to all the evidence in its possession, it considered that the information provided by the Government was not capable of reassuring the Court as to the manner in which the Italian authorities had assessed the well-foundedness of the applicant's fears at the time of his deportation. The Court therefore held that the carrying-out of the applicant's deportation to Tunisia had been in breach of Article 3.

Article 34

In cases such as the applicant's one, where a risk of irreparable damage was plausibly asserted, the object of the interim measure indicated by the Court was to maintain the status quo pending the Court's determination of the case; the interim measure therefore went to the substance of the application. The Court had already ruled that failure to comply with interim measures was to be regarded as preventing the Court from effectively examining the applicant's complaint, as impeding the effective exercise of his or her right and, accordingly, as a violation of Article 34. Italy had deported the applicant to Tunisia in the knowledge that the interim measure indicated under Rule 39 was still in force. Admittedly, the applicant had been released and had been able to resume contact with his lawyer following his detention in Tunisia; however, that did not mean that the Italian authorities had complied with their obligation not to hinder in any way the effective exercise of the right of individual petition. The fact that The applicant had been removed from Italian jurisdiction constituted a serious impediment to the fulfilment by the Government of their obligations to safeguard the applicant's rights and make reparation for the consequences of the violations found by the Court. That situation had amounted to hindrance of the effective exercise by the applicant of his right of individual petition, which had been nullified by his deportation, in violation of Article 34.

Article 41

Under Article 41 (just satisfaction), the Court held that Italy was to pay the applicant 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,500 in respect of costs and expenses. Judges Björgvinsson, Popović and Malinverni expressed a separate opinion.

- **Right to liberty and security**

Nelissen v. the Netherlands (no. 6051/07) (Importance 2) – 5 April 2011 – Violation of Article 5 § 1 – Unlawful continued detention in remand prison, upon completion of sentence, of a patient suffering from paranoid schizophrenia

[*] See, in particular, *Saadi v. Italy* (Grand Chamber), 28 February 2008, and *Ben Khemais v. Italy*.

The case concerned the complaint of a patient suffering from paranoid schizophrenia that, ordered to be confined in a custodial clinic, he continued to be detained in prison after having completed a prison sentence imposed on him.

The applicant complained of having continued to be detained after having served the seven-month prison sentence.

The Court noted that the Netherlands Government acknowledged that the duration of the applicant's detention while awaiting placement in a custodial clinic had not met the requirements of Article 5 and declared unilaterally that they were prepared to pay him EUR 3,525 in compensation for non-pecuniary damage. They further invited the Court to strike the case out of its list of cases. The Court rejected that request, observing that it remained unclear from the submissions at which stage the incompatibility of the pre-placement detention acknowledged by the Government commenced and that the Government's submission only addressed the duration of the pre-placement detention, not the lawfulness under Article 5 of the detention after having served the seven-month prison sentence which was also a feature of the case as complained about by the applicant. The Court then went on to find that the applicant's case did not differ from another case against the Netherlands in which the Court had found that the significant delay of more than six months between the applicant's confinement order and his placement in a custodial clinic, and thus the beginning of his treatment, was not acceptable, in breach of Article 5 (see *Brand v. the Netherlands*). The applicant had been admitted to a custodial clinic only one year and one month after the confinement order imposed on him became final and enforceable. There had accordingly been a violation of Article 5 § 1. Under Article 41 (just satisfaction), the Court held that the Netherlands was to pay the applicant EUR 3,525 in respect of non-pecuniary damage.

- **Freedom of expression**

RTBF v. Belgium (no. 50084/06) (Importance 1) – 29 March 2011 – Violation of Articles 6 § 1 – Excessive formalism shown by the Court of Cassation in declaring inadmissible the second limb of the applicant company's appeal – Violation of Article 10 – Interference with the applicant company's right to freedom of expression on account of the lack of foreseeability of the legislative framework and the case-law of the Belgian courts, concerning the interim injunction preventing the broadcasting of one of its programmes

The applicant company, the RTBF, is a public broadcasting corporation serving the French-speaking community in Belgium. For many years it has been broadcasting a monthly news and investigation programme, which deals with judicial issues in a general sense. A programme scheduled for 24 October 2001 contained footage concerning medical risks and more generally the rights of patients and their communication and information problems. The case concerned in particular an interim injunction ordered by an urgent-applications judge against the RTBF, preventing the broadcasting of the programme until the final decision in a dispute between a doctor named in the programme and the RTBF.

The applicant company complained about the refusal by the Court of Cassation to take into consideration the second limb of its appeal concerning its freedom of expression. It also complained about the interim injunction preventing the broadcasting of one of its television programmes.

Article 6 § 1

The Court reiterated that there was now widespread consensus within the member States of the Council of Europe on the applicability of Article 6 safeguards to interim measures, as the interim proceedings and proceedings on the merits concerned, in many cases, the same "civil rights and obligations" within the meaning of Article 6. In the present case the injunction of 24 October 2001 had pursued the same purpose as the proceedings on the merits – to prevent the broadcasting of the offending programme –, concerned the same right to freedom of expression and to impart information through the press, and was immediately enforceable. The fact that the applicant company had had access to the Court of Cassation did not in itself necessarily mean that the degree of access afforded under the legislation was sufficient to secure its "right of access to a court". The rule applied by the Court of Cassation to declare inadmissible the second limb of the RTBF's appeal was a jurisprudential construction not derived from any particular statutory provision but extrapolated from the specific nature of the role of the Court of Cassation, its review being limited to ensuring compliance with the law. The case-law in this connection was, moreover, not constant. The Court took the view that the Court of Cassation had not been unable to determine the legal basis on which it was entitled to review the decision of the urgent-applications judge, and that in the second limb of the applicant company's appeal detailed argument had been given for a violation of Article 10. The excessive formalism shown by the Court of Cassation had thus been in breach of Article 6 § 1.

Article 10

The Court observed that the injunction, until a decision on the merits, preventing the broadcasting of footage in a television programme concerning topical judicial issues, constituted interference by the public authorities in the RTBF's freedom of expression. The Court noted that whilst Article 10 did not, as such, prohibit prior restraints on broadcasting, such restraints required a particularly strict legal framework to prevent any abuse, for news was a perishable commodity and to delay its publication, even for a short period, might well deprive it of all its interest. The Court observed that the Belgian Constitution authorised the punishment of offences committed in the exercise of freedom of expression only once they had been committed and not before. As to the Judicial Code and the Civil Code, they did not clarify the type of restrictions authorised, nor their purpose, duration, scope or control. More specifically, whilst they permitted the intervention of the urgent-applications judge, there was some discrepancy in the case- law as to the possibility of preventive intervention by that judge. There was thus no clear and constant case-law that could have enabled the applicant company to foresee, to a reasonable degree, the possible consequences of the broadcasting of the programme in question. The Court observed that, without precise and specific regulation of preventive restrictions on freedom of expression, many individuals fearing attacks against them in television programmes might apply to the urgent-applications judge, who would apply different solutions to their cases and this would not be conducive to preserving the essence of the freedom of imparting information. In conclusion, the legislative framework, together with the case-law of the Belgian courts, as applied to the applicant company, did not fulfil the condition of foreseeability required by the Convention. There had thus been a violation of Article 10.

Article 41

Under Article 41 (just satisfaction), the Court held that Belgium was to pay the applicant 42,014.40 euros (EUR) in respect of costs and expenses.

Fatih Taş v. Turkey (no. 36635/08) (Importance 2) – 5 April 2011 – Violation of Article 10 – Disproportionate interference with the applicant's right to freedom of expression on account of his conviction for publishing a book on anti-terrorist agencies – Violation of Article 6 § 1 – Excessive length of proceedings – Violation of Article 13 – Lack of an effective remedy

In 2004 the publishing company owned by the applicant published a book written under pseudonyms in which a former member of the PKK, an illegal organisation, talked about his recruitment by the anti-terrorist agencies and the murders committed by those agencies in the name of combating terrorism. On 2 December 2004 the Istanbul public prosecutor instituted criminal proceedings in the Istanbul Assize Court against the book's authors and the applicant. The charges related to the disclosure of the names of State officials who had taken part in such operations, since that had allegedly led to their being identified as terrorist targets. Several hearings were held between 2005 and 2007, although the applicant failed to appear at some of them. In January 2008 the Istanbul Assize Court found him guilty and fined him 440 Turkish liras for having disclosed the names of officers and leading figures involved in the fight against terrorism and thus causing them to become targets for terrorist organisations. Lastly, it held that the book, taken as a whole, advocated violence. In May 2010 the Court of Cassation refused the applicant leave to appeal on points of law, thus terminating the proceedings under domestic law.

The applicant submitted that his conviction was in breach of Article 10. He also complained that the length of the criminal proceedings against him had been excessive. Lastly, he maintained that he had had no effective remedy in Turkey in respect of those two complaints.

Article 10

The Court reiterated that Article 10 § 2 of the Convention, which permitted certain restrictions on freedom of expression, had to be applied particularly narrowly in relation to political speech or matters of public interest. In addition, bearing in mind the seriousness of the acts recounted in the book, there had been a legitimate public interest in knowing not only the nature of the conduct of the officials in question but also their identity. The Court acknowledged that the statements made in the book could, in themselves, have been capable of exposing the persons concerned to a danger of assault, or else to public contempt. The interference in question could therefore have been based on relevant reasons. Nevertheless, the Court noted that the name of one of the officials concerned had already appeared in a report submitted to the Turkish National Assembly, and had also been published by a daily newspaper at the time. The other official, meanwhile, had died. Lastly, since the information in question had been in the public domain at the time of the publication, the interest in protecting the identity of those concerned had been diminished and the potential damage resulting from its disclosure had already been done. With regard to the accusation of incitement to violence, the Court observed that although the book had used virulent language, it had merely imparted ideas and

opinions on a matter of general interest in a democratic society. Accordingly, despite the margin of appreciation enjoyed by the national authorities in punishing incitement to violence, the Court found that the interference with the applicant's freedom of expression had not been based on sufficient reasons to be deemed necessary in a democratic society. In the light of these considerations, the Court concluded that there had been a violation of Article 10.

Article 6 § 1

Although certain delays in the proceedings had been attributable to the applicant, who had failed to appear at certain hearings, the Court found that the length of the criminal proceedings against him had been excessive (five-and-a-half years at two levels of jurisdiction).

Article 13

The Court noted that it had already found that no effective remedy had been available in respect of the excessive length of criminal proceedings, in violation of Article 13 in conjunction with Article 6 § 1.

Article 41

By way of just satisfaction, the Court held that Turkey was to pay the applicant 250 euros (EUR) in respect of pecuniary damage, EUR 3,900 in respect of non-pecuniary damage and EUR 1,770 in respect of costs and expenses.

Siryk v. Ukraine (no. 6428/07) (Importance 2) – 31 March 2011 – Violation of Article 10 – Disproportionate interference with the applicant's right to freedom of expression on account of her punishment, in the context of civil liability, for raising before the State body a complaint concerning alleged violations by a public official

The applicant complained about defamation proceedings brought against her following a letter she addressed to the tax authorities in which she accused officials of the Tax Service Academy – where her son was studying – of corruption. In June 2005 the courts ordered the applicant to retract her letter and pay the Academy's President compensation.

The applicant complained that her right to hold and impart opinions had been violated and that she had been unlawfully punished by the courts for criticism of a public official.

The Court noted that the letter did not pose a threat to the Academy officials' enjoyment of public confidence, as its contents were not made known to the general public and no press or other form of publicity was involved. On the whole, it may reasonably be argued that the applicant's complaint did not go beyond the limits of acceptable criticism, especially since these limits may be, in certain circumstances, wider in respect of civil servants than in relation to private individuals (see *Lešník v. Slovakia*). The Court also observed that, although the applicant's letter contained serious factual allegations of corruption, misappropriation of public funds, and other abuses of office by officials of the Academy, it also contained statements which could arguably be qualified as value judgments. Specifically, these included allegations that the Vice-President of the Academy had treated the students and their parents unfairly and that she had been legally incompetent. Despite the fact that pursuant to Section 47-1 of the Information Act value judgments were not as such susceptible of proof, the courts held the applicant liable for having been unable to prove such statements despite the fact that they had made no analysis of whether the statements could have been value judgments. In this connection, the Court reiterated that the requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10 (see *Ukrainian Media Group v. Ukraine*). In these circumstances, the Court found that the applicant's punishment, in the context of civil liability, for raising before the State body a complaint concerning alleged violations by a public official was disproportionate to the aim pursued, namely the protection of the reputation and rights of that official. Accordingly, there had been a violation of Article 10 of the Convention.

- **Protection of property**

Potomska and Potomski v. Poland (no. 33949/05) (Importance 2) – 28 March 2011 – Violation of Article 1 of Protocol No. 1 – Interference with the applicants' property rights following the domestic authorities' refusal to allow them to build on former Jewish cemetery

The case concerned the Potomski couple's complaint that they have been prevented from developing land bought from the State because it was formerly a Jewish cemetery.

The applicants complained that they have been prevented from developing their land since its listing as a historic monument in 1987 and that the authorities have failed to expropriate it or provide them with an alternative plot.

The Court noted that the Polish Government admitted that there had been an interference with the applicants' property rights and it was common ground that that interference had been provided for by law, the 1962 Protection of the Cultural Heritage Act, and pursued the legitimate aim of protecting Poland's cultural heritage. The Court considered that the most fitting measure to counterbalance that interference would have been expropriation with payment of compensation or the offer of a suitable alternative property. However, any attempt to obtain expropriation was unsuccessful, lack of funds being cited as one of the reasons. The Court reiterated that lack of funds could not justify the authorities' failure to remedy the situation. Moreover, the couple had no way to compel the authorities to purchase their property, domestic law not providing a procedure by which they could bring their claim before a judicial body. All they could do was to submit requests to bring expropriation proceedings and rely on the authorities' discretion. Nor did any procedural mechanism exist to resolve a dispute, such as in the applicant couple's case, as to the suitability of property offered in lieu. The couple could not be blamed for refusing both offers as they had no guarantee that their interests would be sufficiently protected. Nor indeed did domestic law compel them to accept an offer of alternative property even if it had matched the value of the original plot. The Court further observed that the state of uncertainty in which the couple had found itself, neither being able to develop their land or have it expropriated, had lasted a considerable amount of time. It therefore found that the fair balance between the demands of the general interest of the community and the requirements of the protection of property had been upset and the applicant couple had had to bear an excessive burden, in violation of Article 1 of Protocol No. 1. The Court held that the question of the application of Article 41 was not ready for decision and reserved it for a later date.

- **Chechnya and Dagestan**

Esmukhambetov and Others v. Russia (no. 23445/03) (Importance 2) – 29 March 2011 – Violations of Article 2 (positive obligation and procedural) – (i) Domestic authorities' failure to protect the right to life of the relatives of five of the applicants during the indiscriminate bombing of a village inhabited by civilians – (ii) Lack of an effective investigation – Violation of Article 13 taken together with Article 2 – Lack of an effective remedy – Violation of Article 8 and Article 1 of Protocol No. 1 in respect of all applicants – Destruction of the applicants' homes and property forcing the applicants to leave their home village and become refugees – Violation of Article 13 taken together with Article 8 – Lack of an effective remedy – Violation of Article 3 – Mental suffering in respect of the applicants

Murtazovy v. Russia (no. 11564/07) (Importance 3) – 29 March 2011 – Violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' close relative – (ii) Lack of an effective investigation – Violation of Article 3 – The applicants' moral suffering – Violation of Article 5 – Unacknowledged detention of the applicants' close relative – Violation of Article 13 in conjunction with Article 2 – Lack of an effective remedy

2. Judgments referring to the NHRSs

Rahimi v. Greece (no. 8687/08) (Importance 2) – 5 April 2011 – Violation of Article 3 – Inhuman treatment on account of domestic authorities' failure to take into account the applicant's extremely vulnerable individual situation as a minor and the conditions of detention in the Pagani centre, which were so serious as to be an affront to human dignity – Violation of Article 13 – Lack of an effective remedy – Violation of Article 5 §§ 1 and 4 – Unlawful detention – Lack of an effective remedy to challenge the lawfulness of the detention

The applicant is an Afghan national who was born in 1992 and currently lives in Athens. Following the death of the applicant's parents in the armed conflicts in Afghanistan, he left the country and arrived on the Greek island of Lesbos. He was arrested there on 19 July 2007 and was placed in the Pagani detention centre pending an order for his expulsion. The applicant alleged that he had not received any information on the possibility of applying for political asylum and that the failure to provide him with an approved translator had hampered his communication with the authorities. The applicant was held in the Pagani detention centre until 21 July 2007. He alleged that he had been placed with adults, had slept on a dirty mattress, had had to eat sitting on the floor and had not been allowed contact with the outside world. According to the Greek Government, the applicant had been held in a cell specially adapted for minors and had made no complaints to the local authorities about his conditions of detention. An order for the applicant's deportation was issued on 20 July, mentioning that his cousin,

N.M., was accompanying him. The phrase “he is accompanying his minor cousin...” appeared as standard text. The applicant alleged that he did not know N.M. and had never stated otherwise to the authorities. On his release, the applicant was left without any accommodation or transport. After remaining homeless for several days, he was subsequently provided with accommodation by the NGO Arsis in an Athens hostel, where he remains to date. According to a certificate issued by Arsis in 2009, the applicant had arrived in Athens unaccompanied, together with other unaccompanied minors. According to the certificate, no guardian had been appointed although the public prosecutor responsible for minors had been apprised of the situation. The report drawn up when the applicant’s request for political asylum was registered on 27 July 2007 made no mention of his being accompanied by a member of his family. In September 2007 the applicant’s application for political asylum was rejected; his appeal is still pending.

The applicant complained of a lack of support appropriate to his status as a minor and of the fact that he had not been accompanied when he was arrested and placed in detention or after his release. He also complained about the conditions in the Pagani detention centre and of having been placed with adults. He alleged that his situation as an illegally resident minor had been consistently disregarded and that he had not been informed of the reasons for his arrest or of any remedies in that connection.

Articles 3 and 13

Whether the applicant had been accompanied

The Court noted that the question whether the applicant had been accompanied was decisive in terms of the State’s obligations towards him. The Court considered that since 27 July 2007 the applicant had not been accompanied by a close relative. With regard to the period from 19 to 27 July 2007, the applicant’s claims concerning the situation of migrant children, especially on the island of Lesbos, were corroborated by **several reports noting, in particular, the persistence of serious failings in the supervision of unaccompanied minors claiming asylum, statistical issues and the problem of unaccompanied minors being registered by the authorities on Lesbos as accompanied, as well as the arbitrary assignment of minors to adults from Afghanistan described as their “brother” or “cousin”**. The Court attached particular significance to the fact that the phrase “he is accompanying his minor cousin” appeared as standard text on the expulsion order. The authorities had based their decision solely on the statements made by the applicant although the latter, being unable to speak English, had communicated with the authorities through a fellow national. The family tie between the applicant and N.M. had been established by the competent authorities on the basis of an uncertain procedure which provided no guarantee that he was in fact accompanied; this had important implications, since the designated adult was supposed to act as guardian. The Court noted that the Greek Government had not furnished any information concerning N.M. following his release. The Court thus considered that the Government’s contention that the applicant had been an accompanied minor was not established for the period from 19 to 27 July 2007.

Conditions of detention in the Pagani detention centre

The Court could not say with certainty whether the applicant had been placed in detention with adults, but his allegations concerning overall conditions in the Pagani centre were corroborated by several concordant reports by the **Greek Ombudsman**, the CPT - which described the centre as “filthy beyond description” and as “a health hazard for staff and detainees alike” – and several international organisations and Greek NGOs (see the Report to the Government of Greece on the visit to Greece carried out by the CPT from 23 to 29 September 2008 and the Report to the Government of Greece on the visit to Greece carried out by the CPT from 17 to 29 September 2009). The problem of overcrowding was highlighted, as were the extremely poor sanitary conditions: detainees sleeping on the ground, one toilet and one shower for 150 people during periods of overcrowding, partial flooding of the floors due to overflowing toilets, etc. The Court also attached particular importance to the violent incidents (rioting, hunger strikes) that had taken place in the centre in 2009 owing to the very poor conditions of detention. The Pagani centre was reportedly closed in 2009. In view of the failure to take into account the applicant’s extremely vulnerable individual situation and the conditions of detention in the Pagani centre, which were so serious as to be an affront to human dignity, the Court held that the applicant had been subjected to degrading treatment, despite the fact that his detention had lasted for only two days.

The period following the applicant’s release

UNHCR had already expressed deep concern at the fact that Greek prosecutors, although designated by law as the temporary guardians of minors seeking asylum, rarely intervened in matters relating to the latter’s living conditions and treatment. To date, no guardian appeared to have been appointed for the applicant. Furthermore, **the Greek Ombudsman had noted that no policy existed aimed at ensuring the survival of unaccompanied minors after their release from the Pagani centre**. It was clear that the authorities were undertaking no efforts to protect them from possible violence and exploitation. Owing to the authorities’ indifference, the applicant, left to fend for himself, must have

experienced profound anxiety and concern, particularly between the time he was released and his being taken in by the organisation Arsis, which had noted problems on his arrival (emaciation, fear of the dark, etc.). The Court considered it relevant to refer in that regard to the Grand Chamber judgment of 21 January 2011 in *M.S.S. v. Belgium and Greece*, in which it had noted **"the particular state of insecurity and vulnerability in which asylum seekers are known to live in Greece" and had found that the Greek authorities were to be held responsible "because of their inaction"**. The Court held that the threshold of severity required by Article 3 had been attained also in respect of the period following the applicant's release. The Court concluded that both the applicant's conditions of detention in the Pagani centre and the authorities' failure to take care of him as an unaccompanied minor following his release amounted to degrading treatment in breach of Article 3. The Court held that the State had also failed to comply with its obligations under Article 13.

Article 5 § 1

To avoid being branded as arbitrary, detention had to be carried out in good faith; it had to be closely connected to the purpose of preventing unauthorised entry of the person to the country; the place and conditions of detention had to be appropriate; the length of the detention should not exceed that reasonably required for the purpose pursued. The applicant's detention had been based on Law no. 3386/2005 and had been carried out with the aim of ensuring his expulsion. In principle, the length of his detention could not be said to have been unreasonable in that regard. However, the automatic application of the legislation in question did not appear compatible with the need to give paramount consideration to the child's best interests. The Greek authorities had given no consideration to the best interests of the applicant as a minor and had not explored the possibility of replacing detention with a less drastic measure. These factors led the Court to doubt the authorities' good faith in carrying out the detention measure. The Court therefore held that the applicant's detention had not been "lawful" within the meaning of Article 5 § 1 (f).

Article 5 §§ 2 and 4

The Court had already identified **shortcomings in Greek legislation regarding judicial review of detention with a view to expulsion** and had found violations of Article 5 § 4. The Court reiterated that a number of recent court decisions at first instance allowing the administrative courts to examine the lawfulness of the detention of foreign nationals and to order their release if they were found to have been held illegally had not been sufficient to overcome the ambiguity in the wording of Law no. 3386/2005. Moreover, the applicant had been unable in practice to contact a lawyer and the information brochure had been incomprehensible to him. Even assuming that the remedies relied on had been effective, the Court failed to see how the applicant could have exercised them. Accordingly, there had been a violation of Article 5 § 4.

Article 41

Under Article 41 (just satisfaction), the Court held that Greece was to pay the applicant 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,000 in respect of costs and expenses.

3. Other judgments issued in the period under observation

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

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

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Croatia	29 Mar. 2011	Brezovec (no. 13488/07) Imp. 2	Violation of Art. 1 of Prot. 1	Domestic courts' unlawful interference with the applicant's claim for purchase of a flat, which relying on the existing case-law of	Link

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

				the Constitutional Court, should have been granted	
France	31 Mar. 2011	Chatellier (no. 34658/07) Imp. 2	Violation of Art. 6 § 1	Interference with the applicant's right of access to a court on account of the court of appeal's dismissal of the applicant's appeal in which he argued he lacked the necessary funds to comply with the first-instance judgment to repay a bank loan	Link
Malta	05 Apr. 2011	Gera de Petri Testaferrata Bonici Ghaxaq (no. 26771/07) Imp. 2	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1 No violation of Art. 13	Excessive length of constitutional redress proceedings (more than 30 years) Deprivation of property for nearly thirty years and lack of adequate compensation Lack of sufficient evidence to conclude that the constitutional remedy was ineffective	Link
Poland	05 Apr. 2011	Kijowski (no. 33829/07) Imp. 3	No violation of Art. 8	Having regard to the margin of appreciation allowed to the domestic authorities, the Court did not consider that the period of one year and ten months during which the domestic courts dealt with the merits of the applicant's request to modify the residence order in respect of his son amounted to a breach of the applicant's right to respect for his family life	Link
Portugal	29 Mar. 2011	Gouveia Gomes Fernandes and Freitas e Costa (no. 1529/08) Imp. 3	Violation of Art. 10	Disproportionate punishment, in the context of civil liability of the applicant, convicted for defamation after making comments in the press which were deemed damaging to a judge's reputation	Link
Romania	29 Mar. 2011	Popa (no. 17437/03) Imp. 3	Violation of Art. 10	Disproportionate interference with the applicant's right to freedom of expression on account of her conviction to pay a criminal fine and compensation for non-pecuniary damage after publishing an article criticising the professional conduct of a judge	Link
Romania	05 Apr. 2011	Akbar (no. 28686/04) Imp. 3	Violation of Art. 3	Poor conditions of detention in Bucharest-Rahova prison (see the Report to the Romanian Government on the visit to Romania carried out by the CPT from 8 to 19 June 2006)	Link
Romania	05 Apr. 2011	Bălaşa (no. 21143/02) Imp. 2	Just satisfaction	Judgment on just satisfaction due to the judgment of 20 July 2010	Link
Russia	29 Mar. 2011	Vladimir Sokolov (no. 31242/05) Imp. 2	Violation of Art. 3 No violation of Art. 34	Poor conditions of detention in Nizhniy Novgorod remand prison no. 52/1 and in Moscow remand prison no. 77/3 Lack of sufficient factual basis to enable the Court to conclude that any undue pressure or any form of coercion was put on the applicant's relatives and counsel	Link
Russia	05 Apr. 2011	Vasyukov (no. 2974/05) Imp. 3	Violation of Art. 3 No violation of Art. 3	Domestic authorities' failure to duly diagnose the applicant with tuberculosis and comply with their responsibility to ensure adequate medical assistance to him during his detention in the correctional colony Lack of sufficient evidence to conclude that the applicant was	Link

				deprived of medical assistance in respect of his tuberculosis in the period after September 2004 (see the 3rd General Report on the CPT's Activities (1992), the 11th General Report on the CPT's Activities (2000) and the Report to the Russian Government on the visit to the Russian Federation carried out by the CPT from 2 to 17 December 2001)	
Turkey	05 Apr. 2011	Şaman (no. 35292/05) Imp. 3	Violation of Art. 6 § 3 (c) and (e) in conjunction with Art. 6 § 1	Lack of legal assistance and of an interpreter during police custody	Link
Turkey	05 Apr. 2011	Yıldırır (no. 21482/03) Imp. 3	Just satisfaction	Judgment on just satisfaction due to the judgment of 24 November 2009 (Request for referral to the Grand Chamber pending)	Link
Ukraine	07 Apr. 2011	Kalyuzhna v. (no. 16443/07) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings (more than nine years and one month for three levels of jurisdiction)	Link

4. Repetitive cases

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

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

State	**Date**	**Case Title**	**Conclusion**	**Key words**
Russia	29 Mar. 2011	Shchurov v. (no. 40713/04) link	Violation of Art. 6 § 1	Quashing of a final and enforceable judgment in the applicant's favour by way of supervisory review
Russia	05 Apr. 2011	Anufriyev (no. 32215/05) link Kirilenko (no. 38597/04) link Kravtsov (no. 39272/04) link	Violation of Art. 6 § 1 (fairness) – first and third cases Violation of Art. 1 of Prot. 1 – first case Two violations of Art. 6 § 1 (fairness) – second case Two violations of Art. 1 of Prot. 1 – second case	Domestic authorities' failure to enforce final judgments in the applicants' favour Quashing of final judgments in the applicants' favour by way of supervisory review
Turkey	29 Mar. 2011	Ercan Kartal (nos. 41810/06 and 20871/07) link	Violation of Art. 5 § 3 Violation of Art. 6 § 1	Excessive length of pre-trial detention (more than thirteen years and four months), on suspicion of belonging to an illegal armed organisation Excessive length of criminal proceedings (more than fifteen years and seven months)
Turkey	29 Mar. 2011	Gürkan v. (no. 1154/04) link	Violation of Art. 6 § 1 Violation of Art. 6 § 1	Excessive length of administrative proceedings (six years and six months) Failure to communicate to the applicant the Supreme Administrative Court's interim decision and the replies submitted by the administration to that decision
Turkey	29 Mar. 2011	Kar (no. 25257/05) link	Violation of Art. 1 of Prot. 1	Transfer of ownership of the applicant's land to the State Treasury without compensation
Turkey	05 Apr.	Sudan and Others (no.	Violation of Art. 5 § 3 – first, second, third, fifth	Excessive length of pre-trial detention (more than nine years for the first applicant; more

	2011	48846/07, 37741/08, 37466/09, 41803/09, 43598/09 and 47269/09) link	and sixth applicants Violation of Art. 6 § 1 (length) – second, third, fourth, fifth and sixth applicants	than four years for Murat Nart and more than ten years for the rest of the applicants) Excessive length of criminal proceedings (more than nine years and ten years respectively)

5. Length of proceedings cases

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

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

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

State	**Date**	**Case Title**	**Link to the judgment**
Greece	05 Apr. 2011	Karadanis (no. 58433/09)	Link
Greece	05 Apr. 2011	Kokkinatos (no. 46059/09)	Link
Greece	05 Apr. 2011	Pesmatzoglou and Pesmatzoglou-Fitsioula (no. 6130/09)	Link
Turkey	05 Apr. 2011	Özakıncı (no. 10182/04)	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 21 March to 3 April 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	29 Mar. 2011	Alibašić (no 18478/08) link	The applicant complained of the unlawfulness of his detention in Drin and Duje Social Care Homes and of the lack of an effective domestic procedure; he further claimed that he wanted to get married, but that domestic law did not allow him to do so	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Bulgaria and Georgia	29 Mar. 2011	Stoyanov-Kobuladze (no 25714/05) link	Alleged violation of Art. 5 § 2 (failure to inform the applicant promptly of the reasons for his arrest), Art. 6 § 1 (unfairness of criminal proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Bulgaria	29 Mar. 2011	BZNS (Edinen) (no 28196/04) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Inadmissible as manifestly ill-founded (the Court found it established that a delay of nearly eight years, possibly more, was imputable exclusively to the applicant party and the authorities cannot be held responsible for the excessive duration of the proceedings)
Croatia	29	Papić (no	Alleged violation of Articles 6 § 1, 13	Struck out of the list (friendly

	Mar. 2011	41489/09) link	and Art. 1 of Prot. 1 (excessive length of enforcement proceedings and lack of an effective remedy)	settlement reached)
Estonia	29 Mar. 2011	Valma (no 54462/08) link	Alleged violation of Articles 6 § 1, 10, 13 and Art. 1 of Prot. 1 (non-enforcement of a final decision in the applicant's favour and authorities' failure to return or pay her compensation for her unlawfully expropriated property, alleged violation of her right to receive information on the proceedings concerning her property claim, authorities' failure to resolve her property claim in fair proceedings within a reasonable time)	Partly struck out of the list (friendly settlement reached concerning the non-enforcement of the decision in the applicant's favour), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Hungary	29 Mar. 2011	Kormanik (no 37905/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Hungary	29 Mar. 2011	Tatay (no 39449/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Hungary	29 Mar. 2011	Szabóné Pákozdi (no 931/08) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Hungary	29 Mar. 2011	Tóth (no 60380/08) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Moldova	29 Mar. 2011	Ionel (no 24032/08) link	Alleged violation of Art. 3 (poor conditions of detention), Art. 5 § 1 (unlawful detention), Art. 5 § 3 (excessive length of detention)	Partly struck out of the list (unilateral declaration of Government concerning the conditions of detention and the length of detention), partly inadmissible as manifestly ill-founded (failure to substantiate the complaint concerning claims under Art. 5 § 1)
Moldova	29 Mar. 2011	Pasat (no 15594/06) link	Alleged violation of Art. 3 (lack of adequate medical care in detention), Art. 5 § 1 (unlawful detention), Art. 5 § 3 (excessive length of detention) and Art. 5 § 4 (lack of a speedy remedy to challenge the lawfulness of the detention)	Struck out of the list (unilateral declaration of the Government)
Poland	29 Mar. 2011	Lipiec (no 514/10) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention)	Struck out of the list (friendly settlement reached)
Serbia	29 Mar. 2011	Škorić (no 43395/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Serbia	29 Mar. 2011	Petrović (no 22144/07) link	Alleged violation of Art. 6 § 1 (non-enforcement of a final domestic judgment in the applicant's favour)	Idem.
Serbia	29 Mar. 2011	Jugović (no 36193/08) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings)	Struck out of the list (the matter has been resolved at the domestic level and the applicant no longer wished to pursue his application)
Serbia	29 Mar. 2011	Lazarević (no 14050/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Serbia	29 Mar. 2011	Karović (no 18998/08) link	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (excessive length of civil proceedings) and Art. 13 (lack of an effective remedy)	Idem.
Serbia	29 Mar. 2011	Pejčinović (no 32728/08) link	Alleged violation of Art. 6 § 1 (non-enforcement of a final judgment in the applicant's favour)	Idem.
Serbia	29 Mar.	Radin (no 36575/08)	Alleged violation of Art. 6 (excessive length of civil proceedings for	Idem.

	2011	link	damages) and Art. 13 (lack of an effective remedy)	
Serbia	29 Mar. 2011	Šabaredžović (no 5953/07) link	Alleged violation of Art. 6 § 1 (non-enforcement of a final judgment in the applicant's favour)	Idem.
Serbia	29 Mar. 2011	Jelić (no 52512/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Serbia	29 Mar. 2011	Vlačić (no 5925/08) link	Alleged violation of Art. 6 (excessive length of a labour-related dispute) and Art. 13 (lack of an effective remedy)	Idem.
Serbia	29 Mar. 2011	Muderizović (no 9285/07) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings and alleged violation of the applicant's right to be presumed innocent) and Art. 10 (the applicant's indictment for the expression of his professional opinion)	Partly struck out of the list (unilateral declaration of Government concerning the length of proceedings), partly inadmissible for non-exhaustion of domestic remedies (concerning the alleged violation of the applicant's right to be presumed innocent) and partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Serbia	29 Mar. 2011	Zilkić (no 29083/08) link	Alleged violation of Art. 6 (excessive length of a property-related civil suit) and Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
the Czech Republic	29 Mar. 2011	Čavajda (no 17696/07) link	Alleged violation of Art. 6 (unfairness of proceedings and infringement of the applicant's right to be presumed innocent), Art. 13 (lack of an effective remedy)	Partly inadmissible in accordance with Article 35 § 3 (b), as amended by Protocol No. 14 (the respect for human rights does not require an examination of the application on the merits concerning the alleged unfairness of proceedings; see *Holub v. the Czech Republic*), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
the Czech Republic	29 Mar. 2011	Matoušek (no 9965/08) link	Alleged violation of Art. 6 (unfairness of proceedings and infringement of the applicant's right to be presumed innocent), Art. 7 (the domestic courts did not prove the applicant had a *mens rea* to commit the crime)	Idem.
the United Kingdom	29 Mar. 2011	E.L. (no 33140/06) link	Alleged violation of Articles 3 and 8 (the applicant's separation from her daughter for eleven months), Art. 6 (unfairness of proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Turkey	29 Mar. 2011	Bayar (no 21564/06) link	Alleged violation of Art. 6 (unfairness of proceedings), Art. 10 (the seizure of the daily newspaper Günlük Evrensel, of which the applicant was editor-in-chief)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	29 Mar. 2011	Demirel (no 15588/04) link	Alleged violation of Art. 5 § 4 (lack of an effective remedy to challenge the lawfulness of the applicant's detention)	Struck out of the list (the applicant no longer wished to pursue her application)
Turkey	29 Mar. 2011	Çobanoğlu (no 43550/07; 43558/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (excessive delay in the payment of the additional compensation which the applicants were awarded by the Halfeti Civil Court following the expropriation of their properties)	Struck out of the list (the applicants no longer wished to pursue their application)

Turkey	29 Mar. 2011	Azarkan (no 42403/09) link	Alleged violation of Art. 3 (ill-treatment in detention), Art. 5 §§ 1 and 3 (unlawful detention and excessive length of detention) and Art. 6 § 1 (excessive length and unfairness of proceedings)	Partly adjourned (concerning the length of criminal proceedings, the alleged lack of legal assistance in police custody and the applicant's inability to obtain the examination of witnesses at his trial), partly inadmissible for non-respect of the six-month requirement (concerning claims under Art. 5 §§ 1 and 3), partly inadmissible for non-exhaustion of domestic remedies (concerning the unfairness of compensation proceedings) partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	29 Mar. 2011	Blagoy (no 18949/04) link	In particular alleged violation of Art. 3 (poor conditions of detention), Art. 6 § 1 (quashing of the decision on termination of criminal proceedings) and several other complaints	Partly adjourned (concerning the quashing of the decision on termination of criminal proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)

C. The communicated cases

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

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

- on 4 April 2011: link
- on 11 April 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 4 April 2011 on the Court's Website and selected by the NHRS Unit

The batch of 4 April 2011 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Bulgaria, Estonia, France, Georgia, Greece, Hungary, Latvia, Moldova, Poland, Romania, Russia, San Marino, Slovakia, the Czech Republic, "the former Yugoslav Republic of Macedonia", Turkey and Ukraine.

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

	Decision to Communicate		
France	14 Mar. 2011	R.A.L. no 62112/09	Alleged violation of Articles 2 and 3 – Alleged risk of being killed or subjected to ill-treatment if expelled to Afghanistan – Alleged violation of Article 13 – Lack of an effective remedy
Moldova	14 Mar. 2011	Eremia and Others no 3564/11	Alleged violation of Articles 3 and 8 – Domestic authorities' alleged failure to comply with their positive obligations to protect the applicants from domestic violence and to prosecute those responsible for such violence – Alleged violation of Art. 14 in conjunction with Art. 3 – Discrimination on grounds of sex
Poland	14 Mar. 2011	Segura Naranjo no 67611/10	Alleged violation of Art. 3 – Alleged risk of being subjected to ill-treatment if expelled to Colombia
Romania	15 Mar. 2011	The Familia Trade Unions General Federation no 10684/04	Alleged violation of Art. 11 § 1 – Alleged interference with the applicant organisation's freedom of association on account of its inability to participate in collective bargaining in order to amend the existing collective agreement, although it enjoyed a right of representation for the ceramics, glass and pottery branch of the industry
Romania	14 Mar. 2011	Calmuc no 25177/06	Alleged violation of Art. 10 – Alleged interference with the applicant's right to freedom of expression on account of his conviction for having published an article accusing the city's mayor of corruption

Communicated cases published on 11 April 2011 on the Court's Website and selected by the NHRS Unit

The batch of 11 April 2011 concerns the following States (some cases are however not selected in the table below): Croatia, France, Germany, Greece, Lithuania, Malta, Russia, Slovenia, the United Kingdom, Turkey and Ukraine.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
France	22 Mar. 2011	B.M. no 5562/11	Alleged violation of Art. 3 – Alleged risk of being subjected to ill-treatment if expelled to Sri Lanka
Greece	25 Mar. 2011	Sampani and Others no 59608/09	Alleged violation of Art. 2 of Prot. 1 – The applicants are Greek nationals of Rom origin – Alleged lack of access to education and poor conditions in schools – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 14 in conjunction with Art. 2 of Prot. 1 – Discrimination on grounds of ethnic origin
Ukraine	22 Mar. 2011	Dvirnyy no 610/05	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment during the search and training exercises conducted by special police forces in Zamkova Prison no. 58 – (ii) alleged lack of an effective investigation – (iii) alleged lack of adequate medical care
Ukraine	22 Mar. 2011	Torgovyy Dim Petro I Pavel no 34215/07	Alleged violation of Art. 10 – Alleged interference with the applicant company's freedom of expression, in particular its right to impart information and ideas on account of its conviction for defamation – Alleged violation of Art. 6 § 1 – Domestic courts' alleged failure to give reasons for their decisions

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

Poland: closure of the pilot-judgment procedure (01.04.2011)

A systemic problem with Poland's housing legislation has been resolved to the satisfaction of the Court, which has therefore closed its examination of all Polish "rent-control" cases. Press release

Part II: The execution of the judgments of the Court

A. New information

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

B. General and consolidated information

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

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

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

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

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

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

A. European Social Charter (ESC)

Hearing held in Valencia on the integration of immigrants in regions and cities (29.03.2011)

http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Images/ValenciaSeminar30032011_1.JPGMr. Luis Jimena-Quesada, President of the European Committee for Social Rights, participated in a hearing organised by the European Economic and Social Committee entitled "Integrating immigrants in regions and cities : avenues for cooperation between civil society and local and regional authorities".(more information). Programme; European Economic and Social committee website

Seminar on the Revised Social Charter in Montenegro (31.03.2011)

A seminar was held in Podgodrica on 31 March 2011 in order to provide assistance in the drafting of the first report of this state under the Revised ESC and to provide training of government officials and other legal professionals as well as representatives of civil society in the legal requirements of the Charter. (Read more). Programme

Seminar on the protection of children and young people in Kirov (31.03.2011)

http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Images/KirovSeminarMarch2011.JPG
A seminar was held in Kirov (Russian Federation) from 30-31 March 2011 in the context of the 50th Anniversary of the ESC and it focussed on 20 years of social work carried out in Russia. (Read more); Programme; Calendar of events

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 publishes report on Turkey (31.03.2011)

The CPT has published on 31 March the report on its fifth periodic visit to Turkey, which took place from 4 to 17 June 2009, together with the response of the Turkish Government. Both documents have been made public at the request of the Turkish authorities. In the course of the visit, the CPT's delegation interviewed a large number of persons detained in various police or gendarmerie establishments and remand prisons throughout Turkey; the delegation gained the distinct impression that the downward trend seen in recent years in both the incidence and the severity of ill-treatment by law enforcement officials was continuing. Nevertheless, a number of credible allegations of recent physical ill-treatment were received, which concerned mainly excessive use of force during apprehension. In response to a specific recommendation made by the Committee in this regard, the Turkish authorities have issued a circular to all central and provincial police units inter alia emphasising the need to avoid ill-treatment and excessive use of force. Particular attention was paid during the visit to the conditions under which immigration detainees were held. In this connection, major shortcomings were found by the delegation in several of the detention centres visited, in particular at Ağrı and Edirne. As regards the legal situation of immigration detainees, it became evident that they were being detained without benefiting from basic legal safeguards. Shortly after the visit, the Turkish authorities informed the CPT that the unit for male adult detainees at Edirne had been withdrawn from service. Hardly any allegations of physical ill-treatment of prisoners by staff were received in most of the prison establishments visited by the CPT's delegation. Konya E-type Prison constituted an exception to this favourable situation; the delegation heard several allegations of physical ill-treatment by staff and it also gained the impression that inter-prisoner violence was a

rather frequent occurrence in this establishment. As regards conditions of detention, many of the prisons visited were overcrowded, barely coping with the ever-increasing prison population. Further, the possibilities for organised activities (such as work, education, vocational training or sports) were limited for the vast majority of prisoners, including juveniles. In the report, the CPT has also expressed serious concern about the inadequate provision of health care to prisoners and a dramatic shortage of doctors in prisons. In their response, the Turkish authorities provide information on various measures taken to implement the recommendations made by the Committee on the issues described above.

C. European Commission against Racism and Intolerance (ECRI)

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

Committee of Ministers: adoption of resolutions on Latvia**,** Serbia **and** Ukraine **(31.03.2011)** Other monitoring documents : State Report, Advisory Committee Opinion, government Comments (link)

Advisory Committee: adoption of four opinions (01.04.2011)

The Advisory Committee on the Framework Convention for the Protection of National Minorities adopted four country-specific opinions under the third cycle of monitoring the implementation of this convention in State Parties. The Opinion on **"the former Yugoslav Republic of Macedonia"** was adopted on 30 March, the opinions on **Denmark** and **Slovenia** were adopted on 31 March, and the opinion on **Estonia** was adopted on 1 April. They are restricted for the time-being. These four opinions will now be submitted to the Committee of Ministers, which is to adopt conclusions and recommendations.

E. Group of States against Corruption (GRECO)

GRECO an exemplary standard for international anti-corruption, says Deputy Secretary General (28.03.2011)

The Deputy Secretary General made an introductory speech at the GRECO on the occasion of its 50th Plenary Meeting. She underlined that, over the past 11 years, GRECO has set an exemplary standard for international anti-corruption. She also made reference to the issue of match-fixing and illegal betting, a new threat which corrupts the "rules of the game", the need for standards to be set to fight it and the key role GRECO could play in monitoring the implementation of such standards. Speech by Maud de Boer-Buquicchio; Programme of the Plenary Meeting

GRECO report on Cyprus: Need for uniform anti-corruption legislation and greater transparency of financing of political parties (04.04.2011)

GRECO published on 4 April its Third Round Evaluation Report on Cyprus, in which it stresses a clear need to establish a uniform legal framework for the criminalisation of corruption offences. GRECO also concludes that private sector financing of political parties should be more transparent. Theme I on incriminations; Theme II on Transparency of Party Funding

GRECO report on Moldova calls for improvement of anti-bribery legislation and for stricter supervision of political funding (06.04.2011)

GRECO published on 6 April its Third Round Evaluation Report on Moldova, in which it acknowledges improvements in the legislation to fight corruption and regulate political funding, but concludes that improvements are needed to combat bribery and calls for a stricter supervision and greater transparency of political funding. Link to the report: Theme I on incriminations; Theme II on Transparency of Party Funding

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

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

Participation to the 16th Annual International Anti-Money Laundering Conference (30.03.2011)

John Ringguth, Executive Secretary to MONEYVAL, took part in the 16th Annual International Anti-Money Laundering Conference in Hollywood (Florida, 19-23 March 2011). This conference brought together more than 1100 AML/CFT professionals from 50 countries representing the private sector and law enforcement in North America and Europe. The role of the Council of Europe's MONEYVAL mechanism as part of the global network of AML/CFT assessment bodies was explained and the conclusions of MONEYVAL's forthcoming Horizontal Review of its third round of evaluations was outlined - particularly the need for more law enforcement success in asset recovery and major money laundering prosecutions to better support and complement the effort and resources being put into money laundering prevention by the private sector.

Horizontal Review of mutual evaluations under the third round (01.04.2011)

This 3rd Horizontal Review identifies common themes arising out of its third round of mutual evaluations conducted between 2005 and 2009, major areas of weakness and identifies issues that still need to be addressed and which are being followed up in MONEYVAL's ongoing 4th round of assessment visits. Despite significant progress in the adoption of preventive anti money laundering and countering the financing of terrorism (AML/CFT) legislation, law enforcement need to demonstrate more success, particularly in asset recovery and in achieving significant convictions in major professional laundering cases. That is one of the key conclusions of the report which was adopted in December 2010 and was published on 1 April by MONEYVAL. Horizontal Review

The Holy See to be evaluated by MONEYVAL (07.04.2011)

At their meeting on Wednesday, 6 April 2011, the Committee of Ministers of the Council of Europe, following a request by the Holy See (including the Vatican City State), has adopted a resolution agreeing to the participation in MONEYVAL of the Holy See (including the Vatican City State) with immediate effect. Decision of the Committee of Ministers; CM/Res(2011)5

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

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

Part IV: The inter-governmental work

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

30 March 2011

Albania signed and ratified the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164).

31 March 2011

Spain ratified the European Convention on the Protection of the Archaeological Heritage (Revised) (ETS No. 143), and denounced the European Convention on the Protection of the Archaeological Heritage (ETS No. 66).

4 April 2011

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

8 April 2011

Armenia signed the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (ETS No. 181)

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/ResCMN(2011)6E / 04 April 2011: Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Latvia (Adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies)

CM/ResCMN(2011)7E / 04 April 2011: Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Serbia (Adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies)

CM/ResCMN(2011)8E / 04 April 2011: Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine (Adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Meeting of the Ministers' Deputies (01.04.2011)

At their 1110th meeting on 30 March 2011, the Ministers' Deputies adopted Guidelines on eradicating impunity for serious human rights violations. The guidelines aim to ensure that those responsible for acts amounting to serious human rights violations be held to account for their actions. Furthermore, the Ministers' Deputies held an exchange of views with Mr Etienne Apaire, President of the Pompidou Group (Co-operation Group to Combat Drug Abuse and Illicit Drug Trafficking) who presented them his priorities.

Council of Europe Convention on preventing and combating violence against women and domestic violence (07.04.2011)

At their meeting on 7 April, the Ministers' Deputies adopted the Council of Europe Convention on preventing and combating violence against women and domestic violence and agreed to open it for signature by member states at the ministerial session on 11 May in Istanbul. Text of the Convention

Part V: The parliamentary work

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

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

➢ *Countries*

PACE President hails the contribution of the Czech Republic to the Council of Europe (31.03.2011)

During his working visit to the Czech Republic (30 March - 1 April), PACE President Mevlüt Çavusoglu underlined that the Czech Republic could make a significant contribution to the work of the Council of Europe, regarding the accession of the European Union to the European Convention on Human Rights, as well as the reform of the Council of Europe. Other issues raised included the situation of the Roma population, the situation in Belarus, recent developments in the Arab world as well as PACE's new "Partnership for democracy" status. Mr Çavusoglu also welcomed the authorities' commitment to the fight against extremism, and progress made in the fight against discrimination and racism with the entry into force of the new Criminal Code and the passing of the 2009 Anti-Discrimination Act, which provides equal protection against discrimination on the basis of gender, racial or ethnic origin, religion or belief, disability, age and sexual orientation.

➢ *Themes*

Annette Groth: Some deep rooted prejudices against Roma should be exploded (30.03.2011)

"The Council of Europe has been the pioneer in promoting the protection of the Roma and has been making efforts for a long time now to improve their situation," stressed Annette Groth (Germany, UEL), who is currently preparing a report on "The Situation of Roma in Europe: movement and migration," at the opening ceremony of the Plenary Assembly of the European Roma and Travellers Forum (ERTF). In order to move forward, "we need to explode some myths and deep rooted prejudices," she said, especially those asserting that "Roma are all nomadics," that "they are all from abroad," and that "all Roma migration is illegal". "This is simply not true." "We need to substantially improve the situation of Roma and fight for their rights," she insisted. "We must therefore work very closely with Rudko Kawczynski, the ERTF Chair, and with John Warmisham, Congress rapporteur, to collect examples," concluded Mrs Groth. In January 2011, PACE and ERTF concluded an agreement to reinforce their cooperation. Forum website

'Give the Roma more say!' declares PACE President (07.04.2011)

Mevlüt Çavusoglu, the President of PACE, has issued an urgent call for Roma to be given a stronger voice at local, national and international level. "The Roma are Europe's largest minority, present in virtually every one of the Council of Europe's 47 member States, yet their participation in public and political life is minimal," the President pointed out, speaking on the eve of International Roma Day, 8 April. "This is all wrong, especially as this minority continues to face shocking conditions in some parts of Europe, as well as outright abuse and discrimination. The problem is that we have spent too much time trying to do something for Roma, instead of with them. It is time for a fresh approach: Roma themselves know what needs to be done and they are ready to articulate their hopes, aspirations, ideas and needs. But they do not always have a chance to be heard. The Council of Europe has made an important start by helping to set up the European Roma and Travellers Forum (ERTF), which gives Roma a voice at pan-European level. Since January, ERTF representatives are being invited to PACE committee meetings whenever Roma issues are on the agenda, and we have agreed to consult and co-ordinate more. Roma at last have a place at Europe's table, but there is so much more to do.Only by creating a strong and deep partnership with Roma, at all levels, can we really start to improve the

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

situation of these 12 million Europeans who have faced so much prejudice for so long," PACE President declared.

PACE President: 'Each death of a boat person is one too many' (01.04.2011)

Mevlüt Çavusoglu, President of PACE, expressed his distress after 27 irregular migrants were found off the coast of Tunisia, drowned in the Mediterranean. "Each death of a boat person is one too many", he deplored. "The events this year in Tunisia and Egypt and now in Libya have brought about a new wave of desperate people, using desperate means to find a new life", he said. "We can't just plug the hole and stop this flow without dealing with the root causes, and in the meantime we have to help those in need whether they are persons in distress on the sea, people fleeing persecution or small islands talking the brunt of responsibility", he stressed. "The Committee on Migration, Refugees and Population has asked for a debate on the arrival of migrants, asylum-seekers and refugees on Europe's southern shores at the coming Session and work on "Rescue at sea" and "Responsibility sharing in Europe" has been accelerated in view of the urgency of finding solutions", Mr Çavusoglu concluded.

PACE President: 'We must implement comprehensive national policies for promoting intercultural dialogue' (07.04.2011)

Adressing the World Forum on Intercultural dialogue in Baku, PACE President Mevlüt Çavusoglu underlined that building the environment for successful intercultural dialogue is key to achieving the Council of Europe goals. "But our work does not stop there. We must design and implement comprehensive national policies for promoting intercultural dialogue. In this area, the Council of Europe has a wealth of expertise to contribute," he underlined, while emphasising the role of parliaments in this process. The fundamental values of democracy, human rights and the rule of law, he added, make up the foundation for intercultural dialogue and create an environment in which dialogue can flourish. The forum is an initiative of the Government of Azerbaijan supported by UNESCO, the UN Alliance of Civilisations, the Council of Europe and ISESCO. Alongside his participation in the Forum, PACE President will meet in Baku with the President of the Republic, the Speaker of Milli Mejlis and the Minister for Foreign Affairs. Speech

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

A. Country work

Malta: European solidarity needs to be matched by strong efforts at national level to protect the human rights of migrants (28.03.2011)

"Malta and Europe need each other if the challenges of migration are to be met in a manner that respects human rights," said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, following his visit to Malta from 23 to 25 March. According to the Commissioner, Malta needs to move away from a reactive approach to migration and establish a system that is fully in line with European standards concerning the human rights of immigrants and asylum seekers. At the same time, a much more generous and collegial approach is needed on the part of other European states, by accepting to host some of the persons to whom Malta has rightly accorded international protection. (more)

"Bosnia and Herzegovina should accelerate its efforts to establish a more just society (29.03.2011)

"The legacy of the violent past still endangers the full enjoyment of human rights, democracy and the rule of law in Bosnia and Herzegovina. Although some progress has been made, the authorities at all levels in Bosnia and Herzegovina should proceed in a determined manner towards putting an end to discrimination, fostering reconciliation and building a country that reflects its multiethnic richness," said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing on 29 March a report based on his visit to the country on 27-30 November 2010. Press release in Bosnian; Read the report

B. Thematic work

Prisoners should have the right to vote (31.03.2011)

"The European Court of Human Rights has confirmed its position that there should be no blanket ban against prisoners voting in general elections. This judgment was not particularly popular in the United Kingdom, the country from where another complaint had been filed with the Court. Even leading politicians stated that they were appalled by the idea that persons sentenced to imprisonment would have the right to vote, says the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, in his Human Rights Comment published on 31 March. This problem should indeed be discussed, and not only in the UK." Read the comment

Sharing good practices to foster Roma integration (08.04.2011)

Good practices for protecting and promoting human rights highlight positive developments in human rights work. Examples of such practices developed in member States raise awareness of tested solutions to human rights problems and can also serve as a source of inspiration to other countries. For this reason, the Commissioner launched on 8 April a new page on his website which will host contributions sent by member States. On the occasion of the Roma day, three first descriptions of good practice are made available, relating to the protection of the human rights of Roma in Finland, Slovenia and Spain. (more)

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)

Thematic workshop on "The role of National Human Rights Structures in the Protection and Promotion of the Rights of Children in Care", **Tallinn (6-7.04.2011)**

Hosted by the Chancellor of Justice (Ombudsman) of Estonia and involving the European Network of Ombudsmen for Children (ENOC) this meeting brought together national and specialised children's ombudsmen and relevant staff from such institutions, from national human rights commissions and institutions, from NGOs and the European Court of Human Rights as well as individual experts. They focused on one particular issue of concern within the vast field of the rights of the child, which is the placement of a child in a care, covering the decision of placement (including options and alternatives), the protection of the child while in care or placement and the assistance to be given after care. Organised under the Peer-to-Peer II Project the workshop gave rise to a debriefing paper to keep track of successful and less successful practices and approaches that will have been scrutinised by the participants. Agenda; Outline paper