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

Joint European Union – Council of Europe Programme

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

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Introduction

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

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

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

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

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

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

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

We invite you to read the INFORMATION NOTE No. 140 (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 April 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**

Enukidze and Girgvliani v. Georgia (no. 25091/07) (Importance 2) – 26 April 2011 – Violation of Article 2 (procedural) – Lack of an effective investigation and appropriate punishment into the abduction, beating and killing of the applicants' son by a group of senior law enforcement officers – No violation of Article 2 (substantive) – The convicted perpetrators had acted in their personal capacity and their conduct could not attract the entire State's international responsibility for the killing – Violation of Article 38 – Domestic authorities' failure to cooperate with the Court

The case concerned the abduction, beating and killing, on a winter night in 2006, of Sandro Girgvliani, a 28-year old man, by a group of senior law enforcement officers and the lack of an effective investigation and appropriate punishment. The applicants are his parents.

The applicants complained that their son had been killed by Ministry of Interior officials and no adequate investigation had been carried out into the killing.

Article 2 (investigation)

The Court recalled that States were obliged, under Article 2 of the Convention, to secure people's right to life by putting in place effective criminal-laws and law-enforcement machinery. In addition, States had to conduct an effective official investigation when people had been killed, irrespective of whether the perpetrators were private individuals, official figures, or unknown. While it had been undisputed

that an investigation had been carried out into Sandro's assault and killing, the Court found that it had lacked integrity and efficiency, which had irreparably undermined its effectiveness. Despite circumstances implicating Ministry of Interior officials in the case from an early stage of the investigation, the same Ministry remained in charge of the investigation for a significant period of time – between January and March 2006. During that period the Ministry had conducted numerous important investigative steps. The Court was particularly struck by the institutional connection and even hierarchical subordination between the implicated senior Ministry officers and the investigators. As regards the part of the investigation carried out by the prosecution authorities, the Court noted a number of serious omissions, the main one being the refusal to allow the applicants to be involved in the investigation. The Court found that the prosecution authority had been misleading in the conduct of the investigation. Finally, during the trial, the applicants had not had sufficient time and facilities to study the file and had been consequently deprived of the opportunity to prepare their position and participate effectively in the trial. The Court found particularly regrettable that the Georgian courts had disregarded the applicants' allegation that the investigative authorities had destroyed or concealed evidence as they had introduced in the criminal file only a selection of the calls records made and received by the perpetrators, while they had obtained the information from the mobile phone operators in its entirety. The Court emphasised that such a selective approach was unacceptable because effective investigations had to be based on a thorough and impartial analysis of all relevant elements. Examining further the punishment given to the four perpetrators, namely the prison sentences and the way they had been imposed in practice, the Court held that it had been inadequate. Looking in particular at the prison sentences, the Court found that the domestic courts had not accounted for the cruel, life-threatening inhuman treatment to which Sandro Girgvliani had been subjected. As regards the pardon granted to them in November 2008, and their subsequent release on license, that had been too lenient and unreasonably generous. The Court stressed that States had to be all the more stringent when punishing their law-enforcement officers convicted of killing someone, in order to combat the sense of impunity. Summarising its findings, the Court noted with particular concern how the different branches of State power – including the Ministry of the Interior, the prosecution authority, the domestic courts and the President of Georgia– had all acted in concert in preventing justice from being done in that gruesome homicide case. In conclusion, the Court found a violation of Article 2 as a result of the Georgian authorities' failure to carry out an effective investigation into Sandro Girgvliani's death.

Article 2 (killing)

The Court found that the convicted perpetrators had acted in their personal capacity and their acts had not been connected to their status as officials. Therefore, their conduct could not attract the entire State's international responsibility for the killing.

Article 38 (authorities' obligation to cooperate with the Court)

The Georgian Government had been late, and had partly failed, to submit a number of requested items of evidence to the Court, without providing convincing reasons for it. That led the Court to conclude that the authorities had not complied with their obligations to furnish all necessary facilities to the Court, in violation of Article 38.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Georgia was to pay Sandro Girgvliani's father (the mother having died in the meantime) 50,000 euros (EUR) in respect of non-pecuniary damage, EUR 388 for costs and expenses.

Judges Cabral Bareto, Jočienė and Popović expressed a joint partly dissenting opinion, and Judge Adeishvili expressed a separate partly dissenting opinion.

- **Right for liberty and security**

Pulatlı v. Turkey (no. 38665/07) (Importance 2) – 26 April 2011 – Violation of Article 5 § 1 – Deprivation of liberty of a serviceman, on the basis of a disciplinary decision taken by his immediate supervisor and not by a competent and independent judicial body – Article 46 – Systemic problem: the domestic authorities must incorporate a mechanism for ensuring that disciplinary sanctions involving deprivation of liberty are imposed or reviewed in proceedings before an authority affording judicial guarantees into the Turkish system

At the time of the events of this case, the applicant was a serviceman. After going absent without leave from his garrison in April 2007, he was detained for seven days by his immediate superior (a captain), under the Military Criminal Code. He was able to challenge that decision only by appealing to a higher-ranking officer (his colonel) and not by way of judicial review, the latter remedy being

unavailable to members of the Turkish armed forces under Turkish law (section 21 of the Supreme Military Administrative Court Act (Law no. 1602)).

The applicant's main complaint was that his deprivation of liberty on the basis of a disciplinary decision taken by his immediate superior and not by an independent and impartial tribunal was in breach of Article 5 § 1.

Article 5 § 1

The Court reiterated that, in order to satisfy the requirements of Article 5, deprivation of liberty must be imposed by a competent court that has power to try the case, is independent of the executive and affords adequate judicial guarantees. In the applicant's case, he was deprived of his liberty by order of a higher-ranking officer who, in turn, was subject to and not independent of the military chain of command. Accordingly, the applicant's detention could not be regarded as lawful detention "after conviction by a competent court". Article 5 § 1 had thus been breached.

Article 46

The Court reaffirmed the principle that Turkey remained free, subject to monitoring by the Committee of Ministers of the Council of Europe, to choose the means by which to discharge its legal obligation under Article 46 (execution of the Court's judgments). It noted, however, that, in the applicant's case, the violation of Article 5 § 1 resulted mainly from a **systemic problem, since under the actual provisions of Turkish law (section 21 of the Supreme Military Administrative Court Act (Law no. 1602)), disciplinary sanctions – even those involving deprivation of liberty – imposed by higher-ranking officers for breaches of military discipline were not subject to judicial review**. The Court thus observed that the adoption of general measures by Turkey was undoubtedly called for in the execution of this judgment, and that **the most appropriate form of redress would be to incorporate in the Turkish system a mechanism for ensuring that disciplinary sanctions involving deprivation of liberty were imposed or reviewed in proceedings before an authority affording judicial guarantees**.

Article 41

By way of just satisfaction, the Court held that Turkey was to pay Mr Pulatlı 9,000 euros (EUR) in respect of non-pecuniary damage and EUR 500 in respect of costs and expenses.

Tinner v. Switzerland (no. 59301/08) (Importance 2) – 26 April 2011 – No violation of Article 5 §§ 1 c) and 3 – Justified pre-trial detention of brothers suspected of helping to build nuclear bomb for Libya

The case mainly concerned the reasons for and the duration of the pre-trial detention of two brothers suspected of having supplied war material to Libya (including detailed plans for building a nuclear bomb) and of money laundering.

The applicants complained essentially about the reasons for and the duration of their pre-trial detention.

To determine whether the placement in detention pending trial and the duration of the detention were acceptable by Convention standards, the Court first examined the reasons for which the applicants had been remanded in custody. It noted that the decisions to place them in detention had been properly explained (based on evidence seized and a report by the Malaysian police) and had given plausible reasons for suspecting that the applicants had supplied Libya with equipment that fell within the scope of the Treaty on the Non-Proliferation of Nuclear Weapons. According to the Court, the nature of the offences under investigation and the needs of the investigation had been capable of justifying the detention; it also shared the opinion of the Swiss authorities that the fact that part of the case-file had been destroyed did not alter the fact that strong suspicion existed against the applicants. The Court then examined the reasons for which the detention had subsequently been extended, to a total of approximately three and a half years. It noted that the competent judicial authorities had considered that there was a risk that the applicants would abscond (no strong ties in Switzerland, family in Thailand etc.) and acknowledged that that constituted a "relevant and sufficient" reason throughout the investigation. It saw no reason to disagree with the opinion of the Swiss courts, which had given ample detailed reasons for their decisions justifying the continued detention. The Court reiterated that pre-trial detention was a solution of last resort, justified only when all other available options were insufficient. In the applicants' case the Swiss judicial authorities had not failed to give the matter due consideration. They had come to the conclusion that releasing the applicants against other guarantees was not in the interest of the proper conduct of the investigation and would not guarantee the applicants' presence in the subsequent criminal proceedings. Their decisions in the matter had been convincing and detailed. Lastly, the Court examined whether the proceedings had been

conducted with “special diligence”. It noted that the case before the Swiss courts was an extremely complex one; among other things it necessitated requests for mutual judicial assistance in 16 countries. It concerned some very serious offences punishable, according to the Swiss courts, by prison sentences longer than the pre-trial detention. The Court noted that the Swiss judicial authorities had been attentive to the question of the requisite “special diligence”, the Federal Court having twice (in its judgments of 9 October 2007 and 5 August 2008) drawn the prosecution authorities’ attention to the matter, and the applicants having subsequently been released as a result. Furthermore, the Court discerned no period of inactivity in the proceedings. The Court accordingly found that there had been no violation of Article 5 §§ 1 c) and 3, in respect of the pre-trial detention of the applicants.

- **Right to fair trial**

Sutyagin v. Russia (no. 30024/02) (Importance 2) – 3 May 2011 – Violation of Article 5 § 3 – Excessive length of pre-trial detention – Two violations of Article 6 § 1 – (i) Lack of independence and impartiality of the trial court – (ii) Excessive length of criminal proceedings

The applicant lives in the United Kingdom, following his early release from prison in July 2010 in the context of an exchange of prisoners between Russia and the United States. In October 1999, in the context of criminal proceedings related to a publication which allegedly contained State secrets, the applicant’s flat was searched and material was seized from it. He became a suspect two days later in separate criminal proceedings brought against him for espionage. He was detained on remand the same day as the prosecutor considered that the applicant had gathered, systematised and summarised information of a military and technical nature and then passed it on, for payment, to representatives of a foreign organisation during meetings held outside Russia. The applicant remained in pre-trial detention, which was continuously extended on many occasions, mainly with reference to the gravity of the offence with which he was charged. In September 2003, the case was assigned to a judge from the Moscow City Court who held a preliminary hearing during the same month and scheduled a hearing on the merits by a jury. On 26 November 2003, however, the case was assigned to a different judge who scheduled a hearing in the case for mid-March 2004. The applicant tried repeatedly, but unsuccessfully, to find out why the judge was replaced. In April 2004, the Moscow City Court adopted a judgment sentencing the applicant to 15 years in prison, following a conclusion by a jury that he was guilty as charged. The judgment was upheld in August 2004.

The applicant complained that he had been detained for too long awaiting trial, that the criminal proceedings against him had lasted too long, that the court which had sentenced him had not been independent nor impartial and had not provided him with a fair trial.

Article 5 § 3 (length of pre-trial detention)

The Court noted that the applicant had been detained pending trial for more than four years and five months. The Court recalled that people charged with criminal offences ought to always be released pending trial unless there were relevant and sufficient reasons to keep them in detention. Particular care had to be taken to respect the presumption of innocence as regards suspects or accused, and all arguments for and against the need to keep people detained had to be examined and set out in the authorities’ decisions in respect of continued detention. The Russian courts had consistently relied on the gravity of the charges against the applicant as the sole or decisive factor justifying his prolonged detention, disregarding the argument that his visa for a trip abroad had expired in November 1999, and had not considered any measure, other than detention, as a possibility to ensure his appearance at the trial. The Court held that the applicant had been detained for too long awaiting trial, in violation of Article 5 § 3.

Article 6 § 1 (length of criminal proceedings)

The criminal proceedings against the applicant for espionage had lasted more than four years and nine months in all. Having had regard to its earlier case law on that question, the Court found that the proceedings as a whole had lasted for too long, in violation of Article 6 § 1.

Article 6 § 1 (court independence and impartiality)

The applicant had received no explanation about why the judge presiding at the hearing of the criminal case against him had been changed, despite his numerous requests. The Court noted that the assignment of a case to a particular judge was up to the discretion of the national authorities who had to take into account in their decision-making process factors like available resources, qualification of judges, conflict of interests and accessibility of the place for hearings for the parties. Russian law at the time had not indicated the circumstances in which a judge could be replaced and the procedure to follow. The Court observed that it was not up to it to establish the circumstances which called for the replacement of the judge to whom the case had been assigned initially, yet the reasons for that should

have been made known to the applicant. However, no procedural decision about it had been issued and the applicant had been kept in uncertainty until the end of the trial and had thus not had the possibility to challenge the decision replacing the judge. The Court concluded that the applicant's doubts as to the independence and impartiality of the trial court in his case could have been said to be objectively justified given that the presiding judge had been replaced for unknown reasons and without procedural safeguards. There had, therefore, been a violation of Article 6 § 1 because the trial court had lacked independence and impartiality.

Article 41 (just satisfaction)

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

Apanasewicz v. Poland (no. 6854/07) (Importance 3) – 3 May 2011 – Violation of Article 6 § 1 – Domestic authorities' failure to enforce a decision ordering the closure of a concrete production plant built unlawfully in a residential area – Violation of Article 8 – Considerable nuisance created by the unlawful construction and domestic authorities' failure to adopt effective measures to protect the applicant's right to respect for home

The applicant lives in a house located in a residential area. The case concerned the unlawful construction by the applicant's neighbour of a concrete production plant which was a source of considerable nuisance. In 2001 a civil court ordered the closure of the plant. Despite two sets of enforcement proceedings – one civil and the other administrative – the plant remains open.

The applicant complained in particular of the failure to enforce the 2001 judicial decision requiring the owner of the plant to cease operations. She further argued that the Polish State had failed to secure her right to respect for her home.

Article 6 § 1

The Court reiterated that the right of access to a court under Article 6 implied that final judicial decisions should be enforced. With regard to the civil enforcement proceedings, in so far as she and her neighbour were private individuals, the Polish authorities, as the holders of public authority, had been required to act diligently to assist the applicant in her attempts to have the judgment in her favour enforced. The latter had merely been able to request that fines be imposed on her neighbour; she had duly done so, and most of her requests had in fact been granted by the courts. Despite the considerable length of time that had elapsed since the judgment had been delivered, it had still not been enforced. Furthermore, it could not be argued that the authorities had acted "diligently" as the civil proceedings had lasted for over 20 years to date. As to the administrative enforcement proceedings, it had been up to the authorities to take action of their own initiative to secure enforcement of the decision and remedy the situation in accordance with the law. However, the proceedings for demolition of the plant had been in progress for around ten years and the plant had still not been demolished. The Court observed that the decision to stay execution had required alternative solutions to be sought (for instance, relocation of the plant), and that no steps had been taken towards that end. Furthermore, the plant owner had extended the plant further during that time. The use of delaying tactics by an individual could on no account serve to justify the authorities' lack of diligence. Finally, the Court took the view that, in imposing just one administrative penalty on the plant owner, the authorities had made insufficient use of the coercive measures available to them under Polish law. The Court held that there had been a violation of Article 6 § 1.

Article 8

The Court reiterated that the right to respect for private and family life encompassed the right to respect for the home, which in turn included the right to peaceful enjoyment of that home. Where an individual was directly and seriously affected by noise or other pollution in his or her home, an issue could arise under Article 8. It was clear that the applicant was directly affected by the nuisance created by her neighbour's activities. In view of the findings of the judgment of 3 July 2001 (intense nuisance, proximity of the plant, etc.), the Court held that the minimum threshold of severity required for Article 8 to be applicable had been attained in the applicant's case. On the point of whether the Polish authorities had discharged their duty to protect the applicant's right to respect for her private and family life against the interference caused by her neighbour's activities, it could not but observe that, while the domestic authorities had taken certain measures towards that end, those measures had proved wholly ineffective, in violation of Article 8.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Poland was to pay the applicant 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,850 in respect of costs and expenses.

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

M. v. Switzerland (no. 41199/06) (Importance 2) – 26 May 2011 – No violation of Article 8 – Refusal to renew expatriate citizen's passport to force him to return to Switzerland for criminal investigation was not a disproportionate measure

The applicant has lived in Thailand for a number of years. The case concerned mainly the Swiss authorities' refusal to issue a new passport to a Swiss national living in Thailand, in order to oblige him to return to Switzerland for a criminal investigation, and the effects of that measure on his private and family life.

The applicant complained about the Swiss authorities' refusal to issue him with a new passport and the repercussions of that decision on his private and family life. Among other things, he complained that it made it impossible for him to marry in Thailand or to register his children born out of wedlock or his future wife's children with the Swiss embassy, which would enable him to claim child benefits in addition to his invalidity pension, and also that it prevented him from being admitted to hospital for surgery.

The Court reiterated that an interference with the right to respect for private and family life such as that caused by the refusal to renew the applicant's passport (making it impossible for him to marry or register his children in Thailand) was acceptable under Article 8 only if certain conditions were fulfilled. First, it must be in accordance with the law and pursue a legitimate aim. This was certainly the case here, as the measure had been taken in conformity with the Federal Law on identity documents of Swiss nationals, with the aim of guaranteeing the proper conduct of criminal proceedings. It also had to be "necessary in a democratic society" and be proportionate to the legitimate aim pursued. On this key question the Court made the following observations. The applicant must have been aware that he was under investigation for fraud, a criminal offence under Swiss law. By refusing to return to Switzerland he was intentionally avoiding prosecution. That was why the competent authorities, applying the law, had preferred not to renew the applicant's passport, in order to make him return to Switzerland. The Court pointed out that it was in the first place for the national authorities to apply domestic law and that the States enjoyed a wide margin of appreciation in deciding whether or not to prosecute a person suspected of having committed a crime and what investigation and prosecution measures should be taken. In the applicant's case the Swiss authorities had stated the reasons for their decisions, explaining why the applicant's presence in Switzerland was necessary for the proper conduct of the criminal proceedings, and showing with relevant arguments that the medical certificates produced by the applicant showed no compelling reasons why he should be unable to travel to Switzerland by one means or another. Furthermore, the action the Swiss authorities had taken was less harsh than other steps they could equally well have taken to oblige the applicant to cooperate with the criminal investigation. Issuing an international arrest warrant with an extradition request, for example, could have led to his detention for some time in Thailand. In the light of the detailed decisions of the Swiss authorities and considering the importance, in the public interest, of bringing criminals to justice, the Court found that in the applicant's case the refusal to issue a new passport was acceptable for the purposes of Article 8, and that there had been no violation of that provision.

Sipoş v. Romania (no. 26125/04) (Importance 2) – 3 May 2011 – Violation of Article 8 – Domestic authorities' failure to strike a fair balance between a journalist's right to respect for reputation and the TV channel's freedom of expression

The applicant is a journalist, writer and translator. In 2002, when she was making and presenting a television programme for the Romanian Television Company (SRTV), which was broadcast on the national State channel România, she was replaced by the channel's management without explanation. Not having received any response to her protest, she made statements to the press alluding to the restoration of censorship in State television. In January 2003 the SRTV's press office published a press release, quoted by six national newspapers, describing the facts of the case and the reasons for the measure taken against the applicant, in particular calling into question the applicant's discernment, presenting her as a victim of political manipulation, and referring to her family problems and the allegedly antagonistic relations between her and her colleagues. On 20 March 2003 the applicant brought criminal proceedings before the Bucharest District Court against the channel's director and the coordinator of the SRTV's press office, accusing both of insults and defamation. She joined the

proceedings as a civil party and sought compensation for the non-pecuniary damage that she alleged had been caused to her. In June 2003 the District Court acquitted the defendants on the ground that they had not acted with the intention of insulting or defaming the applicant. Her compensation claim was dismissed. In a judgment of 3 December 2003 the Bucharest County Court acknowledged that the press release contained defamatory assertions about the applicant, but having regard to the fact that the defendants had not intended to insult or defame her, and in view of their good faith, it dismissed the applicant's appeal in a final judgment.

The applicant complained that the Romanian authorities had failed in their obligation, under Article 8, to protect her right to respect for her reputation and private life against the assertions contained in the press release issued by the SRTV.

The Court first reiterated that Article 8 did not merely compel the State to abstain from arbitrary interference with the right to respect for private life. The State also had "positive obligations" that might involve the adoption of measures designed to secure respect for private life even in the sphere of the relations between individuals. To be precise, in the case of the applicant, the Court had to determine whether Romania had struck a fair balance between, on the one hand, the protection of her right to her reputation and to respect for her private life, and on the other, the freedom of expression of those who had issued the impugned press release. For that purpose it examined the content of the press release. It first noted that, in its final judgment, the Bucharest County Court had admitted that the offending press release contained defamatory remarks about the applicant. It further noted that the press release, which had been drafted by a specialized department of Romanian State television and could not therefore be compared to comments made spontaneously, was not confined to a factual statement or explanations. It also contained assertions about political manipulation to which the applicant had allegedly been subjected, and about her emotional state, which was described in particular as being marked by family problems and as creating difficulties in her relations at work. The Court took the view in this connection that the assertions presenting the applicant as a victim of political manipulation were devoid of any proven factual basis, since there was no indication that she had acted under the influence of any particular vested interest. As regards the remarks on her emotional state, the Court noted that they were based on elements of her private life whose disclosure did not seem necessary. As to the assessment about the applicant's discernment, it could not be regarded as providing an indispensable contribution to the position of the SRTV, as expressed through the press release, since it was based on elements of the applicant's private life known to the SRTV's management. In conclusion, the assertions complained of by the applicant had overstepped the acceptable limit and the Romanian courts had not struck a fair balance between the protection of her right to her reputation and the freedom of expression protected by Article 10. Article 8 had thus been breached. Under Article 41 (just satisfaction) of the Convention, the Court held that Romania was to pay the applicant 3,000 euros (EUR) in respect of non-pecuniary damage. Judge Myjer expressed a dissenting opinion.

Negrepontis-Giannisis v. Greece (no. 56759/08) (Importance 2) – 3 May 2011 – Violation of Article 8 – Domestic authorities' refusal to implement in Greece an adoption order made in the United States in respect of the applicant had not met any pressing social need and had not been proportionate – Violation of Article 8 in conjunction with Article 14 – Unjustified difference in treatment between an adopted child, compared with a biological child – Violation of Article 6 – Unfairness of proceedings – Violation of Article 1 of Protocol No. 1 – Interference with the applicant's right to peaceful enjoyment of possessions

In 1984, while living in the United States, the applicant and his uncle (an Orthodox bishop) initiated proceedings for his uncle to adopt him. A Michigan court made the adoption order the same year. The applicant returned to Greece in 1985. His adoptive father died in 1998. The Athens Court of First Instance, following an application by the applicant, held that the American adoption order was not contrary to public policy or contra bonos mores (immoral) and declared it final and legally enforceable in Greece. The applicant began proceedings to change his name and obtained a positive decision allowing him to add his adoptive father's surname (Negrepontis) to his original surname. Members of the Negrepontis family brought court proceedings challenging the recognition of the adoption. In 2002 the Athens Court of First Instance rejected the application, holding that Greek law did not prohibit adoption by a monk. However, the Court of Appeal overturned that decision in December 2003 on the grounds that monks were prohibited from carrying out legal acts, such as adoption, which related to secular activities, as it was incompatible with monastic life and contrary to the principles of Greek public policy. In 2006 the Court of Cassation dismissed an appeal on points of law lodged by the applicant, stressing that the adoption order had implications in terms of inheritance rights. In a judgment of May 2008 the Court of Cassation answered that question in the affirmative, basing its decision on canon law texts from the seventh and ninth centuries. The ruling was adopted by 16 votes

to eight, with the dissenting judges expressing the view that there was no provision in Greek law which barred monks from adopting.

The applicant complained of the refusal by the Greek authorities to recognize the order for his adoption made in the United States.

Article 8

The Court noted that the refusal to recognise the adoption in Greece had amounted to interference with the applicant's right to respect for his private and family life. Such interference was unacceptable under the Convention unless it was "in accordance with the law", pursued one or more "legitimate aims" within the meaning of Article 8 § 2 and was "necessary in a democratic society" in order to achieve them. The key issue in the applicant's case concerned the last of those three criteria. The Court observed that the texts on which the Court of Cassation, sitting as a full court, had relied were all ecclesiastical in nature and dated back to the seventh and ninth centuries. However, national legislation had been passed in 1982 recognising the right of monks to marry and there was no domestic legislation refusing them the right to adopt. The adoption order had been obtained in 1984, when the applicant was already of age. It was valid for 24 years, and the adoptive father had expressed his wish to have a legitimate son who would inherit his property. Accordingly, the Court was of the view that the refusal to implement in Greece to the adoption order in respect of the applicant had not met any pressing social need and had not been proportionate to the aim pursued. There had therefore been a breach of Article 8.

Article 8 in conjunction with Article 14

The Court reiterated that a difference in treatment – such as the difference in the treatment of the applicant, as an adopted child, compared with a biological child – was discriminatory if it had no objective and reasonable justification. The Court observed that, since 1982, monks had been allowed to marry and found a family and that the law laying down that rule had been enacted before the applicant's adoption in 1984. Hence, a biological child born to Mr Negrepontis at the time the applicant was adopted could not have been deprived of his or her filial rights. In view of this unjustified difference in treatment, there had been a violation of Article 8 taken in conjunction with Article 14.

Article 6 § 1

Bearing in mind the texts on which the Greek Court of Cassation had relied in refusing to recognise the adoption and the Court's conclusions under Article 8, the Court also found a violation of Article 6 § 1.

Article 1 of Protocol No. 1

The Court took the view that the decision of the Greek courts, which had resulted in the applicant's being deprived of his status as heir, amounted to interference with his right to the peaceful enjoyment of his possessions, in violation of Article 1 of Protocol No. 1.

Article 41

The Court considered that the question of the application of Article 41 was not ready for decision and reserved it for a later date.

- **Freedom of expression**

Editorial Board of Pravoye Delo and Shtekel v. Ukraine (no. 33014/05) (Importance 1) – 5 May 2011 – Two violations of Article 10 – (i) Domestic courts' order for the editor-in-chief to apologise for defamatory material had not been done in accordance with the law – (ii) Lack of adequate safeguards in Ukrainian law for journalists' use of information obtained from the Internet

The applicants are the Editorial Board and the editor-in-chief of Ukrainian newspaper Pravoye Delo. At the time, the newspaper published articles on political and social questions three times a week, frequently reproducing material obtained from various public sources due to a lack of funds. In September 2003, Pravoye Delo published an anonymous letter, allegedly written by an employee of the Security Service of Ukraine, which had been downloaded from a news website. The letter contained allegations that senior officials of the Odessa Regional Department of the Security Service had been engaging in corrupt and otherwise criminal activities, including in connection with organised criminal groups. The newspaper provided reference to the source of the information and also published a comment by the editorial board which indicated that the information in the letter might be false and invited comments and other related information from all sources. A month later, the president of the national Thai Boxing Federation, who featured in the letter as a member of a criminal

group, brought proceedings for defamation against both applicants. In May 2004, the court ruled against the editorial board and editor-in-chief of Pravoye Delo and ordered them to publish a retraction of a part of the publication containing particularly strong accusations in respect of the Boxing Federation president. In addition, the court ordered them to pay jointly around 2,394 euros (EUR) as compensation for the damage caused to the president by the publication, and ordered separately the newspaper's editor-in-chief to publish an official apology for having allowed the publication in question. The applicants appealed unsuccessfully. However, in July 2006, the Boxing Federation president and the applicants reached a friendly settlement as a result of which they did not have to pay him the compensation awarded by the courts, apart from the costs and expense related to the court proceedings. The applicants also undertook to publish promotional and information material as requested by the Federation president until the amount of compensation they had been ordered to pay was reached. In 2008, the applicants discontinued the publishing of Pravoye Delo.

The applicants complained that their right to freedom of expression had been breached as a result of the sanctions imposed on them by the courts because of the publication in question.

Apology ordered by courts

The applicants had published a letter alleging – without providing any proof - that a public figure, the president of the national Thai Boxing Federation, had been a member of a criminal group and had coordinated and sponsored murders. Ukrainian law at the time had only provided that defamed individuals could ask for a retraction of the defamatory material and for compensation for damage. Both of those measures had been applied in respect of the applicants. However, the courts had ordered the editor-in-chief to also publish an official apology in the newspaper, which had not existed in national law. In addition, the national judges had found in their subsequent practice that an obligation to apologise imposed by a court following a publication was against the Ukrainian Constitutional guarantee of freedom of expression. Consequently, the Court held that the order to the editor-in-chief to apologise had not been done in accordance with the law, and had, therefore, been in violation of Article 10.

Lack of safeguards for usage of Internet material

The publication in question had been a literal reproduction of material downloaded from a publicly accessible Internet newspaper. It had referred to the source of the information and had contained in addition comments by the editorial board clearly distancing the newspaper from the content of the material. Ukrainian law, and in particular the Press Act, absolved journalists from civil responsibility for reproducing material published elsewhere in the press. The Court noted that this had been its own consistent approach in respect of journalists' freedom to disseminate statements made by others. However, the Ukrainian courts had found that no immunity from liability existed for journalists in cases in which the source of the material came from Internet publications not registered in accordance with the Ukrainian Press Act. At the same time, no domestic rules had existed on State registration of Internet media. The Court, having had regard to the important role the Internet played for media activities generally, and for the exercise of the freedom of expression, found that the absence of legal regulation allowing journalists to use information obtained from the Internet without fear of being sanctioned, was an obstacle to the press exercising their vital function of a "public watchdog". In addition, under Ukrainian law, journalists might be exempt from the payment of compensation if they had acted in good faith, had checked the information and had not disseminated the untrue information intentionally. The applicants had raised all these arguments in their defence yet it had been ignored by the national courts. The Court concluded that, in the absence of clarity in domestic law in respect of journalists using information obtained from the Internet, the applicants could not have foreseen the consequences of their action. Therefore, the Convention requirement that any limitation to freedom of expression had to have a basis in law, which was clear, accessible and foreseeable, was not met. There had, therefore, been a violation of Article 10 because of the lack of adequate safeguards for journalists using information obtained from the Internet.

Article 41 (just satisfaction)

Under Article 41, the Court held that Ukraine was to pay the applicants EUR 6,000 in respect of non-pecuniary damage.

- **Chechnya and Ingushetia:**
  - **Article 2 and indiscriminate aerial attacks**

Kerimova and Others v. Russia (nos. 17170/04, 20792/04, 22448/04, 23360/04, 5681/05 and 5684/05) (Importance 2) and **Khamzayev and Others v. Russia** (no. 1503/02) (Importance 2) – 3 May 2011 – Violation of Article 2 (substantive and procedural) – (i) Bombing with indiscriminate

weapons of residential quarters of Urus-Martan inhabited by civilians resulting in the deaths of eight of the applicants' close relatives and domestic authorities' failure to protect the lives of 19 applicants in total – (ii) Lack of an effective investigation into the circumstances of the attacks in which the relevant applicants' relatives died and their own lives were put at risk – Violation of Article 8 – Violation of Article 1 of Protocol No. 1 – Infliction of damage on the applicants' homes and property during federal aerial attacks

- **Disappearance case**

Shokkarov and Others v. Russia (no. 41009/04) (Importance 2) – 3 May 2011 – Violations of Article 2 (substantive and procedural) – (i) Abduction and presumed death of the applicants' close relative – (ii) Lack of an effective investigation – Violation of Article 3 – The applicants' mental suffering – Lack of an effective investigation into the applicants' allegations concerning Visadi Shokkarov's ill-treatment at the hands of the police – No violation of Article 3 (substantive) – Lack of sufficient evidence to enable the Court to find beyond all reasonable doubt that Visadi Shokkarov was ill-treated while in the custody of the police – Violation of Article 5 – Unacknowledged detention of the applicants' close relative

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 26 Apr. 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 03 May 2011: here
- Press release by the Registrar concerning the Chamber judgments issued on 05 May 2011: here

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
France	05 May 2011	Société Métallurgique Liotard Frères (no. 29598/08) Imp. 3	Violation of Art. 6 § 1	Lack of an effective judicial review of the lawfulness of the decision authorising searches and seizures of the applicant company's property	Link
Greece	03 May 2011	Giosakis (No. 3) (no. 5689/08) Imp. 3	No violation of Art. 6 §§ 1 and 3 (a) and (b) Violation of Art. 6 § 2 (fairness) No violation of Art. 6 § 1 (length)	The Court of Cassation's extension of the applicant's charge of misappropriation to one of theft did not breach the applicant's rights under this Article Infringement of the applicant's right to presumption of innocence Reasonable length of proceedings	Link
Greece	03 May 2011	Paratheristikos Oikodomikos Synetairismos Stegaseos Ypallilon Trapezis Tis Ellados (no. 2998/08) Imp. 3	Violation of Art. 6 § 1 (length) Violation of Art. 13 Violation of Art. 1 of Prot. 1	Excessive length proceedings before the Supreme Administrative Court Lack of an effective remedy Infringement of the applicant association's right to peaceful enjoyment of possessions on account of the authorities' change concerning the status of the land concerned, restricting the use that could be made of it and prohibiting the construction of the holiday homes featured on the plans	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

Italy	26 Apr. 2011	di Marco (no. 32521/05) Imp. 3	Violation of Art. 1 of Prot. 1	Expropriation of a plot of land belonging to the applicant to allow for the construction of a road and lack of compensation for the resultant loss of earnings	Link
Portugal	26 Apr. 2011	Antunes Rodrigues (no. 18070/08) Imp. 2	No violation of Art. 1 of Prot. 1	The loss of value of a building owned by the applicant following the completion of road works was not excessive	Link
Romania	03 May 2011	Andrei Iulian Roşca (no. 37433/03) Imp. 2	No violation of Art. 6	Fairness of proceedings convicting the applicant for drug trafficking	Link
Romania	03 May 2011	Todireasa (no. 35372/04) Imp. 2	Violation of Art. 3	Poor conditions of detention in Bucarest-Jilava prison See the CPT report on its visit to Romania from 8 to 19 June 2006	Link
Russia		Ilyadi (no. 6642/05) Imp. 2	Violation of Art. 3 Violation of Art. 6 § 1	Poor conditions of detention in remand centre IZ-77/2 in Moscow Domestic authorities' failure to elicit a sufficiently specific and explicit reply to the applicant's specific and relevant submission and evidence relating to credibility of the prosecution witness	Link
Slovakia	03 May 2011	Stavebná spoločnosť TATRY Poprad, s.r.o. (no. 7261/06) Imp. 3	Violation of Art. 6 § 1	Infringement of the applicant's right of access to a court	Link
Switzerland	26 Apr. 2011	Steulet (no. 31351/06) Imp. 3	No violation of Art. 6 § 1	The use of the term "quibbling" by one of the judges ruling on the applicant's case did not infringe his right to a fair trial	Link
Turkey	26 Apr. 2011	Anat and Others (no. 37899/04) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings (fifteen years for two levels of jurisdiction)	Link

3. Repetitive cases

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

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

State	**Date**	**Case Title**	**Conclusion**	**Key words**
Turkey	26 May 2011	Abdullah Yıldız (no. 35164/05) link	Violation of Art. 6 § 1	Domestic authorities' failure to communicate to the applicant the written opinion of the principal public prosecutor submitted to the Supreme Military Administrative Court
Poland and Germany	03 May 2011	Bielski (no. 18120/03) link	Violation of Art. 5 § 3 (in respect for Poland)	Excessive length of pre-trial detention (three years and twenty-three days)
Poland	03 May 2011	Chernyshov (no. 35630/02) link	No violation of Art. 5 § 3	Reasonable length of pre-trial detention

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

No decisions were published under the Period of Observation

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 2 April 2011: link
- on 9 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 2 April 2011 on the Court's Website and selected by the NHRS Unit

The batch of 2 April 2011 concerns the following States (some cases are however not selected in the table below): France, Georgia, Greece, Italy, Latvia, Moldova, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, the Czech Republic, "the former Yugoslav Republic of Macedonia", the Netherlands, the United Kingdom and Turkey.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
France	15 Apr. 2011	Eon no 26118/10	Alleged violation of Art. 10 – The applicant's conviction for defamation, for holding a sign during the French President's visit to Laval, saying "casse toi pov'con", an expression used by the President himself a few months earlier
Georgia	15 Apr. 2011	Pataraia no 64006/10	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment of the applicant by prison officers in Kutaisi no. 2 prison and while being transported to the prison hospital – (ii) Lack of an effective investigation – (iii) Lack of adequate medical care in Rustavi prison no. 17 – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	14 Apr. 2011	Aksenov no 13706/08	Alleged violation of Art. 2 (procedural) – Lack of an effective investigation into the death of the applicant's son as a result of alleged medical negligence
Russia	14 Apr. 2011	Fedorov no 48974/09	Alleged violation of Art. 5 § 3 – Excessive length of pre-trial detention – Alleged violation of Art. 8 § 1 – Interference with the applicant's right to respect for family life on account of the prohibition of family visits imposed on the applicant by the investigator in the period between February and August 2009
the United Kingdom	12 Apr. 2011	Eweida and Chaplin nos 48420/10 and 59842/10	Alleged violation of Art. 9 – Alleged interference with the applicant's right to manifest her religion or belief on account of the restriction imposed on the applicant on visibly wearing a cross or crucifix at work – Alleged violation of Art. 9 in conjunction with Art. 14 – Alleged discrimination on the basis of religious views
the United Kingdom	12 Apr. 2011	Ladele and McFarlane	Alleged violation of Art. 9 taken alone or in conjunction with Art. 14 – Domestic authorities' alleged failure to adequately protect the applicants' right to manifest

		nos 51671/10 and 36516/10	their religion on account of their dismissal for refusing to carry-out their work concerning same-sex couples
Turkey	12 Apr. 2011	Turhan no 4856/05	Alleged violation of Art. 10 – Alleged interference with the applicant's right to freedom of expression, in particular the right to impart information, on account of the applicant's conviction for defamation for a published book in which he described a certain M.K. as an international drugs and arms dealer

Communicated cases published on 9 April 2011 on the Court's Website and selected by the NHRS Unit

The batch of 9 April 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, Italy, Poland and Slovenia.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
Bulgaria	18 Apr. 2011	Todorov no 8321/11	Alleged violation of Art. 3 – Alleged lack of appropriate paramedical assistance and/or material conditions in Sofia prison hospital where the applicant is currently imprisoned – Alleged violation of Art. 13 – Is there a remedy by which he can obtain improved conditions and better medical and paramedical assistance? Can the possibility of making repeated requests for suspension of the execution of the applicant's sentence be considered an effective remedy, having regard to the fact that suspension can only be temporary, while the applicant's condition seems to be permanent?
Italy	15 Apr. 2011	Sidibeh and 16 other applications no 46214/09	Alleged violation of Art. 3 – Poor conditions of detention in several different prisons in Italy

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

Referral to the Grand Chamber (28.04.2011)

The Court decided to refer the cases of *Boulois v. Luxembourg* and *Gillberg v. Sweden* to the Grand Chamber and to reject requests to refer 52 other cases or groups of cases. Press release

Conference in Izmir (28.04.2011)

The Turkish Chairmanship of the Committee of Ministers of the Council of Europe will organise a high-level conference on the future of the Court in Izmir on 26 and 27 April 2011. Press release, More information

Relinquishment of jurisdiction to the Grand Chamber (27.04.2011)

The Chamber to which the case of *Austin and Others v. the United Kingdom* was allocated has relinquished jurisdiction in favour of the Grand Chamber. The applicants complain of a violation of their right to liberty and security. In May 2001, during a demonstration in London against capitalism and globalisation, peaceful demonstrators and passers-by, including the applicants, were kept penned inside a police security cordon for more than seven hours. A hearing will be held on 14 September 2011.

Cassin advocacy competition 2011 (19.04.2011)

Students from the College of Europe (Bruges) were declared the winners of the 2011 edition of the René Cassin competition for law students. Press release, Photo gallery

Part II: The execution of the judgments of the Court

A. New information

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

B. General and consolidated information

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

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

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

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/e/human_rights/execution/02_Documents/PPIndex.asp#TopOfPage

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

A. European Social Charter (ESC)

Academic Seminar in Seville on the European Social Charter (26.04.2011)

A seminar was held in Seville (Spain) from 27-28 April 2011 in the context of the 50th anniversary of the European Social Charter, organised by the Andalusia Forum for Social Rights (more); Programme *(Spanish only);* 50th Anniversary webpage

Seminar organised in co-operation with the International Institute of Human Rights, on the case law of the Social Charter in Strasbourg (05.05.2011)

http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Images/IIDHWorkshopMay2011_2.JPGA seminar of experts entitled "*Réflexions autour de la jurisprudence de la Charte sociale*" (Reflecting on the case law of the Social Charter), organised in cooperation with the International Institute of Human Rights, was held on 9 May 2011 in Strasbourg. Programme (French only)

The **May 2011** issue of the Newsletter of the Committee is now available and may be consulted online.

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)

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C. European Commission against Racism and Intolerance (ECRI)

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

Protection of national minorities: Council of Europe monitoring body publishes report on Armenia (26.04.2011)

The Council of Europe Advisory Committee on the FCNM published its Third Opinion on Armenia, and the government's Comments on 26 April. Since the adoption of the Advisory Committee's second

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

Opinion in May 2006, Armenia has taken a number of measures to advance the implementation of the Framework Convention. A general climate of tolerance and understanding between national minorities and the majority prevails in the country. The Department for Ethnic Minorities and Religious Affairs and the Coordinating Council for National and Cultural Organizations of National Minorities continue to play an active role in raising awareness on issues affecting national minorities and in seeking to resolve outstanding issues. Problems remain, however, in the implementation of some of the provisions of the Framework Convention. In particular, the formulation and the mandatory nature of the answers to questions on nationality/ethnicity and language contained in the proposed questionnaire for the population census planned for 2011 raise problems as regards the right of persons belonging to national minorities to choose to be treated or not to be treated as such. No comprehensive anti-discrimination legislation has yet been adopted and there remains a lack of reliable statistics in this field. The plans for the reform of local self-government in Armenia may have a negative impact on the right of persons belonging to national minorities to participate effectively in public affairs at local level. Among a number of other recommendations for action to be taken in various areas such as discrimination, and protection from racially-motivated violence, as well as minority cultural, media and linguistic rights, the Advisory Committee recommends in particular to: Review, in the context of the preparation of the population census of 2011, the proposed wording of the questions relating to a person's identification with a national minority and to his or her minority language and the selected methodology of the questionnaire; Take resolute measures to ensure that the rights of persons belonging to national minorities are duly taken into account when planning and implementing the local government reform and to guarantee that the reform has no negative impact on the right of persons belonging to national minorities to participate effectively in public affairs at local level.

Norway: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities (02.05.2011)

A delegation of the Advisory Committee on the Framework Convention for the Protection of National Minorities visited Oslo and Tromso from 2 - 5 May 2011 in the context of the monitoring of the implementation of this convention in Norway. This was the third visit of the Advisory Committee to Norway. The Delegation had meetings with the representatives of all relevant ministries, public officials, the Ombudsman, NGOs, as well as national minority organisations. The Delegation included Ms Aleksandra Bojadjieva (member of the ACFC elected in respect of "the former Yugoslav Republic of Macedonia", Mr Rainer Hofmann (President of the ACFC and member elected in respect of Germany), Ms Barbara Wilson (Vice-President of the ACFC and member elected in respect of Switzerland) and Ms Michèle Akip, Head of the Secretariat of the Framework Convention for the Protection of National Minorities.

E. Group of States against Corruption (GRECO)

Group of States Against Corruption publishes report on the Czech Republic (29.04.2011)

GRECO published on 29 April its Third Round Evaluation Report on the Czech Republic, in which it stresses the importance of the effective application of the legislation on corruption and more substantial and pro-active supervision of political financing.
Link to the report: Theme I (Incriminations) / Theme II (Transparency of Party Funding)

50th Plenary Meeting - GRECO 50, Strasbourg, 28 March - 1 April 2011 - Link to Decisions

51st Plenary Meeting - GRECO 51, Strasbourg, 23-27 May 2011 - Link to Draft Agenda

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

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

Election of a new GRETA member – 6th meeting of the Committee of the Parties

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

At its next meeting on 26 September 2011, the Committee of the Parties of the Council of Europe Convention on Action against Trafficking in Human Beings will elect a new member for GRETA to fill the seat vacated by one of the member's who resigned (2 May 2011). Taking into the current membership of GRETA and bearing in mind that no two members of GRETA may be nationals of the same state only the following Parties are eligible to nominate candidates for GRETA membership: Andorra, Azerbaijan, Belgium, Bosnia and Herzegovina, Cyprus, Georgia, Ireland, Italy, Latvia, Luxembourg, Montenegro, Poland, San Marino, Serbia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom. The governments of these Parties have been invited to submit the names and curricula vitae of at least two candidates to the Secretary General by 26 July 2011. The election procedure and requirements are set out in Resolution CM/Res(2008)7 on rules on the election procedure of the members of the GRETA. On the occasion of its 6th meeting, the Committee of the Parties will also examine GRETA's first three reports concerning the evaluation of the implementation of the Anti-Trafficking Convention by Austria, Cyprus and the Slovak Republic. Pursuant to the Convention, the Committee of the Parties may adopt on the basis of the conclusions of GRETA, recommendations addressed to these Parties.

Part IV: The inter-governmental work

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

29 April 2011

Moldova ratified the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes (CETS No. 203).

4 May 2011

Ukraine ratified the European Convention on the Adoption of Children (Revised) (CETS No. 202).

Finland signed the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191).

B. Recommendations and Resolutions adopted by the Committee of Ministers

CM/Res(2011)6E / 05 May 2011: Resolution on the European Centre for Global Interdependence and Solidarity (North-South Centre) (Adopted by the Committee of Ministers on 5 May 2011 at the 1113th meeting of the Ministers' Deputies)

CM/ResChS(2011)6E / 05 May 2011:Resolution - Collective complaint No. 52/2008 by the Centre on Housing Rights and Evictions (COHRE) against Croatia (Adopted by the Committee of Ministers on 5 May 2011, at the 1113th meeting of the Ministers' Deputies)

CM/Rec(2011)4E / 05 May 2011:Recommendation of the Committee of Ministers to member States on education for global interdependence and solidarity (Adopted by the Committee of Ministers on 5 May 2011 at the 1113th meeting of the Ministers' Deputies)

C. Other news of the Committee of Ministers

Council of Europe conference adopts the "Izmir Declaration" on the future of the European Court of Human Rights (27.04.2011)

The high-level conference organised on 26 and 27 April in Izmir by the Turkish Chairmanship of the Committee of Ministers concluded its work with the adoption of the "Izmir Declaration" on the future of the European Court of Human Rights. The Conference aimed at following up and maintaining the momentum of the process of reform of the supervisory machinery set up by the European Convention on Human Rights, process launched by the Interlaken Conference. The texts of the "Izmir Declaration", the 'Concluding Remarks of the Turkish Chairmanship' and additional information are available on the conference website. "Izmir Declaration"; Turkish Chairmanship conclusions; Conference website

Roma mediators train in Istanbul as Committee of Ministers backs work for Roma
Twenty four new mediators from Turkey are preparing to start work with Roma communities after following the first of the special trainings designed by the Council of Europe as part its plans to help Roma people throughout Europe. The training follows recognition by the Committee of Ministers, at their ministerial Session, of the importance of the Council of Europe’s Roma project when Secretary General Thorbjorn Jagland reaffirmed his commitment to the project.

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*

Croatia 'on the right track', a potential model for other Balkan countries (28.04.2011)

Croatia is “on the right track” in its European integration and could become a model for other Western Balkan countries in their drive for EU membership, PACE President Mevlüt Çavusoglu has said, speaking mid-way through a two-day official visit to the country (28-29 April). The country has made “remarkable progress in establishing democratic norms and practices, in the protection of human rights and in building a state based on the rule of law”, the President said, demonstrating its potential to play the same positive role when it becomes an EU member. Croatia had made “considerable efforts” to deal with the past, Mr Çavusoglu said, also praising its role in fostering reconciliation and co-operation in the region. Further effort was still needed to pursue war crimes prosecutions at domestic level. Finding a “fair and final solution” to the property issues of refugees and IDPs would also help to close this chapter. “Much has been achieved in the field of minority rights, but further efforts are needed to eradicate hatred inherited from the past and improve the situation of the Roma,” the President said. Talks also focused on the current reform of the Council of Europe and the European Court of Human Rights, as well as on the need for greater co-operation and intercultural and inter-religious dialogue in the Mediterranean, in the light of current events in North Africa. Recalling the benefits Croatia had drawn from its fifteen years as a member of the Council of Europe, he concluded: “The Council of Europe needs Croatia as much as Croatia needs the Council of Europe, because we can only find appropriate answers by joining efforts.”

- *Themes*

President points to the Assembly’s potential key role in ‘stemming the flood’ of Court cases (26.04.2011)

National parliaments must play a key role in stemming the flood of applications submerging the European Court of Human Rights, PACE President Mevlüt Çavusoglu has said, speaking on 26 April at the opening of the High-Level Conference on the future of the Court in Izmir, Turkey. Parliaments should "rigorously and systematically verify the compatibility of draft and existing laws with the Convention’s standards", the President pointed out, which would prevent some cases reaching Strasbourg in the first place. Secondly, they should apply pressure on governments to rapidly implement the Court’s judgments when violations were found. However, he also acknowledged: “In spite of the efforts of the Assembly, the manner in which many national legislative bodies function in this regard is still not satisfactory.” The President pointed to the Assembly’s work in tackling major structural problems at national level which had led to numerous repeat violations. For example, Chairpersons of national delegations had been personally invited to provide information within six months on the measures being taken to deal with these problems, he indicated. Concerning PACE’s role in electing the judges of the Court, Mr Çavusoglu pointed out that the Assembly was doing its best to ensure that the judges were of the highest calibre – and did not hesitate to send back lists of candidates which it considered unsatisfactory. He also welcomed the initiative of the Court’s President to create an advisory panel of experts to counsel governments before lists were transmitted to the Assembly. The President also raised concerns that the EU member States could vote as a “bloc” within the Committee of Ministers, particularly as concerns execution of Court judgments, creating an insurmountable voting majority. “I wish to stress that on human rights issues, states must act in

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

conformity with fundamental values and principles, and not according to their 'bloc' belonging and solidarity," he concluded. Full speech (PDF); Draft programme of the conference (PDF)

'Democracy and political rights can benefit from media freedom,' says Mats Johansson (29.04.2011)

"World Press Freedom Day is a moment to celebrate the right to freedom of expression and information through the media as one of the most fundamental political rights for every individual and for the functioning of democratic societies," said Mats Johansson (Sweden, EPP/CD), PACE standing rapporteur on media freedom. "Recent months have shown to the world the power of the free word, and the world has changed and continues to do so. In an era of media based on the Internet and mobile phones, censorship has become virtually impossible. Non-democratic governments, corrupt practices and violations of political rights cannot be kept in the darkness of oblivion any more," he added. "At the same time, I deeply regret that alarming numbers of journalists are imprisoned or attacked physically in Europe, and that laws are passed which aim at restricting the media. It is no coincidence that the free word is targeted and threatened by many regimes. This makes it all the more important that Article 10 of the European Convention on Human Rights is respected, in order to ensure that democracy and political rights can benefit from media freedom. Therefore, governments and parliaments in Europe should do more today – as we celebrate World Press Freedom Day 2011," Mats Johansson concluded.

PACE rapporteur welcomes Strasbourg Court judgment on Igor Sutyagin (04.05.2011)

Christos Pourgourides (Cyprus, EPP/CD), Chairperson of the PACE Legal Affairs Committee and the Assembly's former rapporteur on "Fair trial issues in criminal cases concerning espionage or divulging state secrets", has welcomed the judgment of the European Court of Human Rights in Strasbourg finding a violation by the Russian Federation of scientist Igor Sutyagin's right to a fair trial. "Igor Sutyagin is one of the victims of the 'spy mania' period in Russia in the early years of this millennium, which I exposed in my report adopted by the Assembly in 2006," said Mr Pourgourides. "The Russian security services pulled all the strings to jail several free-thinking scientists, journalists and environmental whistleblowers. I sincerely hope that the other cases described in my report, especially that of Mr Danilov, will also be resolved in a satisfactory way. I should like to use this opportunity to reiterate the Assembly's appeal to the Russian authorities to set Mr Danilov free." Igor Sutyagin, who was included in the high-profile exchange of "spies" between the United States and Russia in July 2010 after having spent more than six years in prison, had reportedly been coerced into accepting the exchange deal and continued to claim his innocence. PACE report on fair trial issues in criminal cases concerning espionage or divulging state secrets

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

A. Country work

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B. Thematic work

Social Networks: potential for social change – but privacy must be protected (27.04.2011)

“The popular uprisings in Tunisia and Egypt were to a large extent made possible by social networking, primarily on Facebook. The resultant mass street protests were perhaps the most compelling example so far of how online connectivity can translate into real-life, positive social change. However, this observation must also give rise to a different human rights question”, says the Commissioner in his Human Rights Comment published on 27 April. “If information is flowing freely enough over social networks to precipitate revolution, what protections are in place to ensure that our personal data cannot be trawled from those networks and put to altogether different, less salutary purposes?" Read the Comment

Adoptions must always serve the best interest of the child (28.04.2011)

“Member States should ensure a better protection of children in the adoption process. In spite of international agreements, the realities of adoption still vary widely among European countries giving raise to serious human rights concerns", said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing on 28 April an Issue Paper on the human rights perspective of adoption of children. The Issue Paper addresses a number of issues including the need for procedural safeguards to ensure that all actors involved in the process of adoption fully respect children’s rights. Read the Issue Paper

Free media - a core element of any democracy (03.05.2011)

On the occasion of World Press Freedom Day, the Commissioner is publishing a new webpage where reports, articles, speeches, statements and recommendations concerning freedom of the media are collected for easy access. Worrying signals of repression and violations of media freedom can be observed in a number of European states. During country visits and continuous dialogue with national authorities, media professionals and civil society, the Commissioner provides advice on ways to improve media freedom and the protection of journalists. He also supports initiatives aimed at strengthening media professionalism and ethical journalism and the establishment of self-regulatory mechanisms. “Free, independent and pluralistic media based on freedom of information and expression is a core element of any functioning democracy. Freedom of the media is in fact essential for the protection of all other human rights,” says the Commissioner. Thematic page on media freedom, independence and diversity

Zero tolerance for sexual abuse of children (05.05.2011)

“Sexual assault against children is an urgent human rights issue and fighting it should be a political priority. Zero tolerance is crucial when it comes to any abuse of children”, says Commissioner Thomas Hammarberg in his Human Rights Comment published on 5 May. “The media reports on the scandals involving clergy in the sexual abuse of children in several countries have highlighted an urgent child rights issue. Such incidents are not isolated: they have been widespread in all kinds of childcare institutions, whether they have been run by different religious communities, private foundations or by state or municipal authorities. But even more frequent are the cases of abuse perpetrated behind the family door.” Read the Comment

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

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)

A delegation from Ukraine on a study visit to Spain (02-06.05.2011)

Within the framework of the Joint Programme between the European Union and the Council of Europe entitled "Transparency and Efficiency of the Judicial System of Ukraine", a study visit in which a delegation made up of 14 members from the Constitutional Court, the Supreme Court, the High Council of Justice and the High Qualification Commission of Judges of Ukraine to the Spanish General Council for Judiciary, the Judicial School, the Spanish Supreme Court and the Spanish Ombudsman took place. During this visit, the judges of the Ukrainian delegation learnt about the general principles of initial and ongoing training, the appointment and the disciplinary responsibility of judges as well as of the judicial inspectors in Europe, in order to develop the institutional and operational capacities of the High Qualification Commission of Judges of Ukraine, following the newly adopted Law on the Judiciary and the status of judges. The participants visited the "city of Justice of Barcelona", a new equipment of the judicial courts which groups each of the system's jurisdictional units into a single orderly sphere. It included, inter alia, the courts of first instances, commercial, criminal investigations, prison inspections, violence against women and children in Barcelona, the provincial Prosecutor's Office of Barcelona, the Institute of Legal Medicine of Catalonia, the Office of victims assistance and the mediation services office. Ms Núria de Gispert i Català, the President of the Parliament of Catalonia, Mr Carlos Dívar Blanco, the President of both the Supreme Court and the General Council of the Judiciary as well as Ms María Luisa Cava de Llano y Carrió, Spanish Ombudsman a.i., welcomed the Ukrainian delegation during the study visit.

Germany supports mapping exercise of Russian Public Monitoring Committees Project, Strasbourg (05.05.2011)

A multi-annual co-operation project is envisaged in order to strengthen the capacity of Russian public monitoring committees (PMCs) to carry out preventive visits to prisons and other places of deprivation of liberty in the Russian Federation. Germany finances a preliminary mapping exercise in order to prepare the project. A signing ceremony took place on 5 May 2011 at the Council of Europe at which Mr Heinrich Haupt, Chargé d'Affaires a.i. of the Permanent Representation of the Federal Republic of Germany to the Council of Europe and Ms Marja Ruotanen, Director of Co-operation within the Council of Europe Directorate General of Human Rights and Legal Affairs, signed a contract whereby Germany with a EUR 100 000 voluntary contribution supports a mapping exercise which forms part of the so-called Russian PMC Pre-Project. "We congratulate all parties involved for having agreed on this important project to strengthen the capacity of the Public Monitoring Committees and are very pleased to be associated with the endeavour", said Mr Heinrich Haupt. Russian PMC Pre Project Description

Consultation meeting on the Council of Europe's activities in the field of migration, Athens (5-6.05.2011)

The Council of Europe has a longstanding experience in the protection and promotion of the rights of migrants, asylum seekers, refugees and internally displaced persons (IDPs). Recently increasing migration-related challenges in and for Europe, cause it to take a more proactive stand, building on its previous work, its already existing policies, instruments and activities, as well as the latest findings of its different monitoring and other bodies. Reviewing and reshaping the Organisation's strategy in the field of migration was the overall goal of this meeting called by the Council of Europe's Co-ordinator on Migration and co-organised by the NHRS Unit and the Office of the Greek Ombudsman, who hosted the gathering. Social integration, irregular migration and asylum issues, detention conditions of migrants and asylum seekers were the main topics. The need to deal with trafficking and smuggling issues was also discussed. The participants were experts from selected NHRSs, high-level officials from the host country, representatives of the UNHCR and the Fundamental Rights Agency of the EU, as well as eminent individual experts. Programme; Background Note; Framework for Council of Europe work on migration issues 2011-2013; List of participants