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LEGAL AND HUMAN RIGHTS CAPACITY BUILDING DEPARTMENT

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NATIONAL HUMAN RIGHTS STRUCTURES UNIT

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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. 136 (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 December 2010 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 judgments which have been struck out (unless these have any particular point of interest).

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

- **Pilot Judgment**

Vassilios Athanasiou and Others v. Greece (no. 50973/08) (Importance 1) – 21 December 2010 – Violation of Article 6 § 1 in conjunction with Article 13 – Excessive length of administrative proceedings – Lack of an effective remedy – Structural problem in Greece concerning excessive length of proceedings, especially administrative proceedings – Application of Article 46 – Greece should introduce, without delay, an effective remedy or a combination of effective remedies at national level, within one year from the date on which this judgment becomes final

Following their compulsory retirement, the applicants brought proceedings in 1994 claiming an additional retirement premium from the Army Solidarity Fund, which refused to grant their request. In 1996 their appeal against that decision was dismissed as ill-founded by the Athens Administrative Court. In January 2000, a hearing was held in the context of their 1997 appeal against the administrative court's decision, following which their case was dismissed. They applied to the Supreme Administrative Court for judicial review; the hearing of their case, initially scheduled for October 2003, was postponed seven times and finally took place in September 2006. The judgment of October 2007 by which the Supreme Administrative Council dismissed their application was certified by that court in April 2008.

The applicants complained of the excessive length of the proceedings instituted by them in 1994 and which ended in 2008, with a view to obtaining an additional retirement pension from the Army Solidarity Fund. They complained that there was no effective remedy under Greek law for their situation.

Article 6 § 1

The Court noted that the proceedings in question lasted 13 years and eight months for three levels of jurisdiction; the time required to issue the certificate confirming the Supreme Administrative Council's ruling had to be included in the period to be taken into consideration, since that had made the judgment enforceable. Although the Greek Government had argued that the applicants had had the option of requesting that hearings be held more quickly, it had not been shown that the administrative courts would have brought forward the hearings had such requests been submitted. The Court emphasised that a possible failure by the applicants to use any means to expedite the proceedings did not compensate for the State's general obligation to guarantee that proceedings took place within a reasonable time. In addition, the Court did not consider that the subject-matter of the dispute, namely the payment of an additional premium, could be described as insignificant for the resources of retired individuals. Having regard to its conclusions in numerous similar cases, the Court held that there had been a violation of Article 6 § 1 on account of the excessive length of the administrative proceedings instituted by the applicants.

Article 13

As the Court had already had the opportunity of concluding that the Greek legal system did not provide any effective remedy for raising a complaint about the length of proceedings, and that the Greek Government had submitted no new information in that respect, the Court concluded that there had been a violation of Article 13 on account of the absence of a remedy that would have enabled the applicants to have their case heard within a reasonable time, as guaranteed by Article 6 § 1.

Article 46

The Court decided to examine this case under the pilot-judgment procedure, which enabled it to clearly highlight the existence of structural problems, indicate the measures to be taken by the State and encourage it to find a solution at domestic level. In that respect, the Court, in its Interlaken Declaration, had emphasised the need to guarantee effective domestic remedies. Although this case differed from certain "pilot cases" that the Court had examined – it did not concern a "specific category of citizens" and the structural problem had already been identified in a large number of judgments – the Court considered that it was appropriate to apply the pilot-judgment procedure, regard being had, in particular, to the chronic and persistent nature of the problems in question and the urgent need to provide the large number of people involved with rapid and appropriate redress at national level. **Between 1999 and 2009 the Court adopted about 300 judgments, finding that there had been excessive length of proceedings in Greece**, **the majority of which concerned excessive length of administrative proceedings, a chronic problem in the country that was highlighted in a 2007 resolution by the Committee of Ministers** (which noted a large number of judgments by the Court finding violations of Articles 6 § 1 and 137). No remedy seems to have been put in place by the Greek authorities in the meantime; in particular, the draft law on "compensation for applicants following an excessive length in legal proceedings", referred to in that resolution, has not, to date, been enacted. In addition, since the 2007 resolution was adopted, the Court has delivered about 50 judgments finding violations of Article 6 § 1 and 15 judgments finding violations of Article 13 on the same grounds. The Court noted that, in several cases, it had been required to examine proceedings which had lasted more than ten years for three levels of jurisdiction, as in the present case. It also noted major delays in the processing of cases before the Supreme Administrative Court. In the Court's view, the 200 or so cases against Greece which concerned length of judicial proceedings – about 100 of which concerned administrative courts alone – confirmed the structural nature of that problem. The Court considered that those delays were a matter of particular concern and were likely to undermine public confidence in the effectiveness of the judicial system, noting in particular that **the unjustified absence of a decision by the courts for a particularly prolonged period could in practice be regarded as a denial of justice, contrary to the right of access to a court as guaranteed by Article 6 § 1**. Reiterating that it was for Greece to select the domestic remedies to be adopted, the Court noted that **a remedy allowing for the expedition of proceedings would make it possible to avoid a finding of successive violations in respect of the same set of proceedings, rather than merely repairing the breach *a posteriori*, as did a compensatory remedy**. The Court had to leave the State the necessary latitude to allow it to organise that remedy in a manner consistent with its own legal system and the standard of living in the country concerned. The Court reiterated **the criteria governing compensation for excessive length of judicial proceedings: the action for compensation was to be decided rapidly, the sum awarded had to be paid within six months of the decision becoming final, the action for compensation had to comply with the principles of a fair hearing, court costs were not to be excessive and the amount of compensation had to be consistent with the awards made by the Court in other cases**. The Court noted that the national courts were not best placed to rule on the issue of the non-pecuniary damage – in contrast to

pecuniary damage – which almost always existed in cases of excessive length of judicial proceedings. While recognising certain recent developments in the Greek legal order, the Court held that **Greece was to introduce, without delay, an effective remedy or a combination of effective remedies at national level, within one year from the date on which its judgment would become final.** The Court did not consider it necessary to adjourn the examination of all the cases concerning the length of judicial proceedings pending the introduction of the necessary remedy (remedies), in order to avoid a situation where the time taken by Greece to implement the general measures would be added to the period required to examine the pending applications.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Greece was to pay each of the applicants 14,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,500 jointly in respect of costs and expenses.

- **Right to life**

Jasinskis v. Latvia (no. 45744/08) (Importance 1) – 21 December 2010 – Two violations of Article 2 (substantive and procedural) – (i) Death of the applicant's son while in police custody due to police officers' failure to seek adequate medical care – (ii) Lack of an effective investigation

The applicant's son sustained serious head injuries and lost consciousness in a fall down some stairs outside a student party in February 2005. Police officers were told that the applicant's son had lost consciousness after hitting his head on the ground, that an ambulance was on its way and that the applicant's son was deaf and mute. The policemen took him to the local police station where he was placed in a sobering-up cell. No medical examination was carried out. The applicant's son knocked on the doors and walls of his cell for some time before going to sleep. The applicant's son could not communicate with the officers as his notepad had been taken away. Seven hours after the applicant's son was taken into custody police officers tried to wake him up, without success. Another seven hours later, an ambulance was called to the station as officers were worried that he had been asleep for too long. Considering that he was "faking" his condition, the ambulance crew refused to take the applicant's son to hospital. Following his father's repeated requests, the applicant's son was eventually taken to hospital where he died on 28 February 2005. The post mortem indicated that the cause of death was multiple injuries to the head and brain, including fractures to the skull and cerebral oedema. The Inspectorate of Quality Control for Medical Care's report concluded that the doctor at the hospital could not be held responsible for the death of the applicant's son but it noted shortcomings in the treatment of his son at the police station especially the fact that the ambulance had not been called in time. The Balvi District Police Department launched an internal inquiry and responsibility for the investigation was passed between the police and various prosecutors' offices three times, before the criminal proceedings were terminates as no wrongdoing was found on the part of the police officers. A further investigation split the proceedings in two: one against the person who had allegedly pushed the applicant's son down the stairs; and, the other against the police officers concerning their failure to seek medical care. Both those proceedings were terminated due to lack of evidence that any crime had been committed.

The applicant alleged that the Latvian police had been responsible for his son's death and that the ensuing investigation had been ineffective.

Article 2

The Court reiterated that Article 2 not only required a State to not "intentionally" take a life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction. As concerned a disabled person in detention, all the more care should be taken to ensure that the conditions corresponded to their special needs, particularly in view of international law, and notably the United Nations Convention on the Rights of Persons with Disabilities, which entered into force on 3 May 2008 and which had since been signed and ratified by Latvia. The Government had failed to explain why the police, despite knowing about the applicant's son's fall and having been informed of his disability, had not considered it necessary to wait for the ambulance or to have medical professionals examine the applicant's son after he had been brought to the police station. The police had never given the applicant's son any opportunity to provide information about his state of health, even after he had kept knocking on the doors and walls of the sobering-up cell. Given the disability of the applicant's son, the police had a clear obligation under domestic law and with regard to international standards to at least provide him with a pen and a piece of paper for communication purposes. The Court was even more concerned by the fact that seven hours had passed between the time in the morning when the applicant's son's son had not woken up and the time when an ambulance had been called. The Court therefore concluded that the Latvian police had failed in their duty to safeguard the life of Mr Jasinskis's son by providing him with adequate medical treatment, in violation of Article 2. The Court further noted that the inquiry into the death of the applicant's son had been carried out by the Balvi District Police Department, the

very same authority implicated in the incident. The Court therefore considered that that investigation, not having complied with the minimum standard of independence of the investigators, had been ineffective and it hadn't been expedient, as responsibility was passed back and forth three times between the police and various prosecutors' offices. The ensuing investigation carried out by the Bureau of Internal Investigation, which had only started more than 18 months after the incident, had not been prompt. Indeed, no effort had been made to investigate the shortcomings identified by the medical care inspectorate, such as assessing whether the police officers' actions had been compatible with their duties. In conclusion, the Court held that the investigation into the circumstances of the death of the applicant's son's son had not been effective, in further violation of Article 2.

Article 41 (just satisfaction)

The Court held that Latvia was to pay the applicant 50,000 euros (EUR) in respect of non-pecuniary damage.

- **Conditions of detention**

Raffray Taddei v. France (no. 36435/07) (Importance 3) – 21 December 2010 – Violation of Article 3 – Domestic authorities' failure to take into account the need for specialised care of the applicant, a prisoner with several serious health issues

The applicant is serving various sentences, in particular for embezzlement, forgery, handling stolen goods and theft (20 convictions since 1994). She has regularly filed applications for deferment of sentence and/or release on licence on medical grounds, alleging serious health problems. Forensic medical examinations showed that she was suffering from a number of conditions, including serious asthma and chronic respiratory insufficiency, anorexia and Munchausen's syndrome. From 2008 to 2009 several experts gave their opinion on the applicant's conditions, some stating that her state of health was compatible with detention, some considering it necessary to envisage other alternatives to imprisonment. In April 2009 a psychiatric expert stated that the applicant's condition required specialised supervision for the treatment of her anorexia and Munchausen's syndrome, confirmed also in 2010. As regards her respiratory problems, the applicant was admitted to hospital on a number of occasions during severe episodes. She had regular medical supervision, medication, and could use an oxygen extractor. Concerning her anorexia (her weight dropped from 54 kg in June 2008 to 30/31 kg according to the most recent indications), she was not receiving any specific treatment despite medical recommendations to that effect. In May 2010 the post-sentencing division of the Lyon Court of Appeal upheld the refusal to release the applicant on licence. Her imprisonment is continuing in the ordinary prison system and according to the Government she receives medical and psychological care on a weekly basis.

The applicant complained about her continuing detention and about a failure to provide her with appropriate treatment for her health problems.

The Court observed that the applicant had requested the deferment of her sentence on medical grounds. At no time had the requisite conditions under French law been fulfilled such as to establish that her continuing detention was precluded for health reasons. The Court could not therefore conclude that the applicant's continuing detention was, in itself, contrary to Article 3. As regards the applicant's respiratory problems, the Court noted that she had been provided with hospital treatment, care and regular medical supervision and the authorities had not failed in their duty to treat her respiratory disorders. Concerning the applicant's anorexia the Court observed that while it had been initially treated at the Fresnes Prison hospital, the illness had nevertheless not been brought under control, especially because of the failure to find her an "adapted placement". Confronted with her severe under-nutrition, the doctors had indicated that reinstitution of nutrition was urgent and recommended that she be admitted to a specialised service, providing psychotherapy for the treatment of the related Munchausen's syndrome. However, none of those measures recommended by doctors had been followed up. The applicant had been returned to ordinary detention in June 2009 at a critical point in the development of her illness, and since then her state of health had been worsening. The Court was struck by the contradiction between the care recommended by the doctors and the response of the national authorities, which had failed to consider an alternative to imprisonment. The Court further noted that it did not have to decide *in abstracto* how the post-sentencing judge should have responded to the applicant's request for release, but it was clear that the repeated recommendation of hospital treatment in a specialised environment had not been taken into account by the judge. The applicant had thus been transferred to an institution which did not appear to have the facilities necessary for the proper treatment of her illness. That transfer had had the effect of placing her far away from her home and her children, regardless of the fact that the doctors had noted that she was distressed by the distance, which was one of the causes of her anorexia. In addition, the Court noted that there had been long and inappropriate procedural delays, involving the examination of a life-threatening condition or a state of health that was incompatible with detention (the applicant had requested that her sentence be postponed in March 2008 and had not

obtained a final decision until October 2009). The Court concluded that the failure by the national authorities sufficiently to take into account the need for specialised care in an adapted facility, as required by the applicant's state of health, combined with her transfers, despite her particular vulnerability and with the prolonged uncertainty following her requests for deferment, were capable of causing her distress that exceeded the unavoidable level of suffering inherent in detention. The Court found, unanimously, that there had been a violation of Article 3.

Article 41

As the applicant had not submitted any claim for just satisfaction, the Court made no award under that head.

- **Right to liberty and security**

Ichin and Others v. Ukraine (nos. 28189/04 and 28192/04) (Importance 1) – 21 December 2010 – Violation of Article 5 § 1 – Arbitrary detention of two minors

In December 2003, three minors stole some food and kitchen appliances from a school canteen. They were questioned by the police, confessed to the theft and returned some of the stolen goods. Two days later, criminal proceedings were opened into the theft against unknown perpetrators. A court ordered the detention of two of the minors in a juvenile holding facility as they were considered capable of committing socially dangerous acts, evading the investigation and interfering with the course of justice. The boys remained in detention for 30 days. In March 2004, their mothers complained to the courts and the prosecution service about their sons having been treated in a degrading manner in the juvenile holding facility. The replies the mothers received were that the courts lacked the power to open criminal proceedings against that facility's staff, and the prosecutor saw no grounds for a criminal investigation. The criminal proceedings against the two boys were terminated in April 2004 as they were under the age of criminal responsibility. Deciding on the application of compulsory educational measures, the court ruled that a warning to both sufficed.

The applicants complained that the detention of the two boys was unlawful.

Article 5 § 1

The Court observed that the Ukrainian authorities had summoned the two boys as court witnesses in a criminal case opened against unknown perpetrators, even though the identity of the offenders had been established by that time, both of them having confessed and returned part of the stolen goods. The decision to detain them did not appear to be for any of the purposes listed in Article 5 § 1 (c). No investigative measures had been taken while the boys had been detained, and the criminal proceedings against them had been started 20 days after their release although they could not be criminally responsible given that they were under age. In addition, the juvenile holding facility in which they had been placed could not be considered a place for "educational supervision" as required under Article 5 § 1 (d) for pre-trial detention to be lawful. The facility was an establishment for the temporary isolation of minors, including those who had committed an offence. It did not appear from the case materials submitted to the Court that the two boys had participated in any educational activities during their stay there. Consequently, their detention did not come under the permissible exceptions of Article 5 § 1 (d) either. As no other exceptions under Article 5 had been shown to apply in the case, the Court concluded that the two boys had been detained arbitrarily, in violation of Article 5 § 1.

.Article 41 (just satisfaction)

Under Article 41 (just satisfaction) of the Convention, the Court held that Ukraine was to pay to the boys 6,000 euros (EUR) each in respect of non-pecuniary damage and EUR 1,500 each for costs and expenses.

- **Right to fair trial**

Gaglione and Others v. Italy (no. 45867/07) (Importance 1) – 21 December 2010 – Violation of Article 6 § 1 Violation of Article 1 of Protocol No. 1 – Domestic authorities' excessive delay in enforcing "Pinto decisions" – Widespread problem in Italy concerning the Italian authorities' failure to guarantee effective payment of compensation in a substantial number of cases within a reasonable time – Application of Article 46 – Italy is to amend the Pinto Act and to guarantee effective payment of compensation within reasonable time

The application concerns 475 cases in which the applicants complained of the delay by the authorities in enforcing judicial decisions dating from 2003 and 2007. The applicants had applied to the competent courts under the "Pinto" Act in order to complain of the length of the proceedings to which they were parties. Following enforcement proceedings brought by the applicants, the courts found that a reasonable time had been exceeded and awarded them compensation for the loss sustained,

ranging from 200 to 13,749.99 euros. Those sums were paid to certain applicants, but others had still not received payment by the date on which the latest information was provided to the Court. The delay by the Italian authorities in enforcing the Pinto decisions in their favour ranged from 9 to 49 months and was 19 months or more in 65% of the applications.

The applicants complained of the delay by the Italian authorities in enforcing "Pinto decisions".

Article 6 § 1

The Court did not consider it necessary to declare the applications inadmissible for lack of a significant disadvantage, within the meaning of the new criterion provided for in Article 35 § 3 (b) as amended by Protocol No. 14, as argued by the Italian Government. It could not be asserted that the applicants had not suffered a significant disadvantage regarding the amounts due to them under the "Pinto" proceedings and the delay in question of at least 19 months in most cases. The Government submitted that default interest had been awarded to the applicants and that they could institute fresh "Pinto" proceedings. The Court had already observed that requiring the applicants to bring fresh Pinto proceedings would be tantamount to locking them into a vicious circle in which the malfunctioning of one remedy would oblige them to have recourse to a second one. While the Court recognised that the authorities needed time to make payment, it reiterated that **in respect of a compensatory remedy designed to redress the consequences of excessively lengthy proceedings, that period should not generally exceed six months from the date on which the decision awarding compensation became enforceable**. In the applicants' case, in view of the delay in enforcing the Pinto decisions, that period had been considerably exceeded. Payment by the authorities of the costs and expenses incurred by the applicants in the enforcement proceedings, such as payment of default interest, could not be regarded as compensation for the non-pecuniary damage sustained. The Court considered that the applicants still had "victim" status and concluded that there had been a violation of Article 6 § 1.

Article 1 of Protocol No. 1

In the light of its case-law, the Court found that the delay in question amounted to an interference with the applicants' right to the peaceful enjoyment of their possessions and that the period beyond which a violation of Article 1 of Protocol No. 1 would be deemed to have occurred should be fixed at six months from when the decision became enforceable; that had been considerably exceeded in the applicants' case. Consequently, there had been a violation of Article 1 of Protocol No.1.

Article 46

Having regard to the Court's conclusions in the applicants' case and to the number of similar cases that had either been processed or were pending, **the Court underlined the existence of a widespread problem, namely, the difficulty for the Italian authorities to guarantee in a substantial number of cases effective payment of compensation within a reasonable time**. On 7 December 2010 more than 3,900 applications relating to that type of complaint were pending before the Court. The number had increased from 613 lodged in 2007 to approximately 1,340 lodged between June and December 2010. There had been an exponential increase in the cost of compensation payable by the Italian Government in Pinto proceedings: at the end of December 2008, 36.5 million euros remained payable in addition to the 81 million already paid. The Court saw in that shortcoming on the part of the State not only an aggravating factor with regard to its responsibility under the Convention, but also a threat to the future of the system put in place by the Convention. In his letter of 2 April 2009 the Registrar of the Court informed the Committee of Ministers that the applicants' case had been communicated to the Italian authorities, in **a letter recommending urgent intervention on Italy's part, referring in particular to a resolution of the Committee of Ministers of the Council of Europe which contained a series of recommendations and, noting a substantial backlog in the civil and criminal fields (5.5 million pending civil cases and 3.2 million pending criminal cases), strongly encouraged the authorities to amend the Pinto Act**. Although in theory it was not for the Court to determine the appropriate measures of redress for a State to take in accordance with its obligations under Article 46, the Court observed that general measures at national level were undoubtedly required in the execution of this judgment, including earmarking funds in the budget for the enforcement of Pinto decisions. Being aware of the difficulty of the task, the Court, while it did not support all the measures proposed in the reform currently being examined by the Italian Chamber of Deputies, considered that it was an ideal framework for taking account of the Court's indications under Article 46 and of the recommendations of the Committee of Ministers.

Article 41

With regard to just satisfaction, the Court considered it necessary to adopt a uniform approach having regard to the fact that the applications involved a number of victims who had been placed in a similar situation. Consequently, it held that Italy should pay each applicant 200 euros (EUR) for non-pecuniary damage and EUR 10,000 to the applicants jointly for costs and expenses.

Judges Cabral-Barreto and Popovic expressed a partly dissenting opinion, which is annexed to the judgment.

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

Anayo v. Germany (no. 20578/07) (Importance 2) – 21 December 2010 – Violation of Article 8 – Domestic authorities' failure to take into consideration whether, in the particular circumstances of the case, contact between the applicant and his two biological children, to whom he was not the legal father, would be in the children's best interest

For about two years, the applicant had a relationship with a married woman, Mrs B.,In December 2005, four months after leaving the applicant, she gave birth to twins, of whom the applicant is the biological father. Mrs B. is bringing up the twins together with her husband, their legal father. Mr and Mrs B. repeatedly refused requests by the applicant, both before and after the twins' birth, to be allowed contact with them. In September 2006, the Baden-Baden District Court granted the applicant contact with the twins once per month for one hour, finding that he was entitled to access under the German Civil Code, as he was a person with whom the children had close ties. In December 2006, the Karlsruhe Court of Appeal quashed the decision of the District Court and dismissed the applicant's request for access to the twins. It held that he was not entitled to access under the relevant provision of the Civil Code, which provided for the right of a parent to have contact with his or her child, because that provision only referred to the entitlement of the legal father, as opposed to the biological father. The court found that the applicant did not fulfil the requirement for a third person other than the legal parents to be entitled to access. In the court's view, it was irrelevant whether contact between him and the twins was in the children's best interests. The German Basic Law protected the biological father's access to his child only where a social and family relationship between them already existed; it did not protect the wish to build up a relationship with the child in the future, the reasons why there was no relationship between the biological father and his child being irrelevant. In March 2007, the Federal Constitutional Court declined to consider the applicant's constitutional complaint against that decision.

The applicant complained that the German courts' refusal to grant him access to his children violated his rights under Article 8.

The Court found that, given that the applicant had never cohabited with the twins and had never met them, their relationship did not have sufficient constancy to be qualified as existing "family life". However, the Court had previously found that a desire for family life might fall within the ambit of Article 8 where the fact that family life had not been established was not attributable to the applicant. That was the case with the applicant, who had not had any contact with the twins solely because their mother and legal father refused his requests. The applicant had demonstrated a genuine interest in the children. Although he and Mrs B. had never cohabited, the children had emanated from a relationship which, lasting some two years was not merely haphazard. The children concerned an important part of the applicant's identity and thus his "private life". The interference with the applicant's private life had been in accordance with German law. Applying the relevant provisions of the Civil Code, the Court of Appeal had argued that he did not fall within the group of people entitled to claim access to the children. German law therefore did not provide for a judicial examination of the question of whether contacts between a biological father and his children would be in the children's best interest if another man was the children's legal father and if the biological father had not yet borne any responsibility for them, irrespective of the reasons for that omission. The provisions thus also covered cases in which the fact that such a relationship had not yet been established was not attributable to the biological father. In the member States of the Council of Europe there was no uniform approach to the question whether a biological father had a right to contact with his child where a different father existed in law. However, in a considerable number of States the domestic courts were in a position to examine whether contact of a biological father with his child, in a situation comparable to the applicant, would be in the child's interest and could grant the father access if that was the case. The Court was aware of the fact that the German courts' decision to deny the applicant contact with his children was aimed at complying with the legislator's will to give existing family ties precedence over the relationship between a biological father and a child. The Court accepted that those existing relations equally warranted protection. A fair balance would thus have had to be struck between the competing rights under Article 8 not only of two parents and a child, but of several individuals concerned – the mother, the legal father, the biological father, the married couples' biological children and the children who emanated from the relationship of the mother and the biological father. The Court was not satisfied that the domestic courts had fairly balanced the competing interests involved. They had failed to give any consideration to the question whether, in the particular circumstances of the case, contact between the twins and the applicant would be in the children's best interest, in violation of Article 8.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Germany was to pay the applicant 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,030.76 in respect of costs and expenses.

Chavdarov v. Bulgaria (no. 3465/03) (Importance 2) – 21 December 2010 – No violation of Article 8 – Domestic legislation prohibiting the biological father to contest the presumption of a husband's paternity did not deprive him of the possibility of establishing a paternal link in their respect or of overcoming the practical disadvantages posed by the absence of such a link

In 1989 the applicant set up home with a married woman (who was living separately from her husband); she gave birth to three children, in 1990, 1995 and 1998, while they were living together. The woman's husband was named as the children's father on their birth certificates and the children were given his surname. At the end of 2002 the woman left the applicant and the children in order to set up home with another partner. Since then, according to the applicant, he has lived with the three children. At the beginning of 2003 the applicant consulted a lawyer with a view to bringing proceedings for recognition of paternity. However, the lawyer informed him that there were no provisions under Bulgarian law for this purpose, since the presumption of a husband's paternity could not be contested.

The applicant complained of his inability to be recognised as the legal father of the three children of whom he claimed to be the biological father.

The Court noted that Bulgaria had an obligation to secure effective enjoyment of the right to "family life" where it existed, although it possessed a margin of appreciation in how it did so. Accordingly, the Court verified first whether the relations between the applicant and the three children amounted to "family life". It noted, firstly, that the long period during which the applicant and his former companion had cohabited (1989-2002) and the birth of the three children during that period indicated that this was indeed a *de facto* family unit, in which the applicant had been able to develop emotional ties with the children. His attachment to them was also evident from the rapid steps taken by him following the separation with a view to overcoming the lack of any formal family ties between himself and the children, and from the fact that the children had lived with him since the separation. In the Court's view, it was therefore established that the ties between the applicant and the three children, whose biological father he claimed to be, did indeed amount to "family life" within the meaning of the Convention. The Court then examined whether Bulgaria had done what was required of it in order to secure effective respect for this "family life". In that respect, it noted at the outset that the existence of the family formed by the applicant and the three children had not been threatened at any point by the authorities, by the mother or by the latter's husband. The Court also took into consideration the margin of appreciation enjoyed by the State in regulating paternal filiations, and noted that there was no Europe-wide consensus on whether domestic legislation should enable the biological father to contest the presumption of a husband's paternity. It also emphasised that, although the applicant was unable to bring an action to challenge the three children's paternal filiations, domestic legislation did not deprive him of the possibility of establishing a paternal link in their respect or of overcoming the practical disadvantages posed by the absence of such a link (in particular, he could have applied to adopt the children, or asked the social services to have them placed under his responsibility as a close relative of abandoned underage children). Since it had not been shown that he had availed himself of those possibilities, the Court could not hold the State authorities responsible for the applicant's own passivity. The children's legitimate interests had also been secured by domestic legislation. The Court concluded unanimously that there had been no violation of Article 8.

- **Freedom of expression**

Novaya Gazeta V Voronezhe v. Russia (no. 27570/03) (Importance 2) – 21 December 2010 – Violation of Article 10 – Disproportionate interference with a newspaper's freedom of expression in a matter of public interest concerning alleged misuse of public funds by public officials

The applicant is the editorial board of the *Novaya Gazeta v Voronezhe* newspaper, a limited liability company under Russian law registered in Voronezh. In April 2002, the newspaper published an article which concerned abuses and irregularities allegedly committed by the mayor of Novovoronezh and other municipal officials. It also made references to services supplied by a local businessman. The article relied on and quoted from a town administration audit report. The mayor, two of the municipal officials and the businessman lodged an action for defamation against the newspaper before the district court. Since the newspaper had at its disposal only ordinary copies of the audit report, having no evidentiary value, the editorial board asked the court to obtain the originals, which the court refused. The editorial board thus sought itself to obtain the originals from a number of authorities, without success. In its October 2002 judgment, the court allowed the plaintiffs' action, holding in particular that the article implied the embezzlement of funds by the mayor and the businessman, of which the newspaper had failed to adduce any proof and thus lacked a factual basis. The court ordered the editorial board to pay compensation to the plaintiffs and to publish an apology. In February 2003, the regional court upheld the judgment, and the editorial board subsequently paid the required compensation and published an apology in the *Novaya Gazeta v Voronezhe*.

The editorial board complained that its rights under Article 10 had been violated.

The Court noted that it was not disputed between the parties that the civil proceedings for defamation constituted an interference with the newspaper's freedom of expression, that this interference was in accordance with Russian law, and that it pursued the legitimate aim of protecting the plaintiffs' reputation. As regards the question whether that interference was "necessary in a democratic society" for the purpose of Article 10, the Court underlined that, as a politician acting in his public capacity, the mayor inevitably and knowingly laid himself open to close scrutiny by journalists and the public at large. That also applied, although to a lesser extent, to the other municipal officials and it applied to the businessman, where the proper use of public funds was concerned. Given that the article mainly concerned the management of those funds, indisputably a matter of general interest about which the local population had the right to be informed, the plaintiffs thus ought to have shown a greater degree of tolerance to criticism in a public debate than a private individual. The Court was not persuaded that the impugned allegation that the mayor had discontinued his membership of the Communist Party, while clearly being a contestable factual statement, could be capable of damaging his reputation, given that neither adherence to the Communist Party nor resigning from it constituted an offence under Russian law. The remainder of the impugned statements mostly reflected the journalist's perception of the distribution of the town's funds. Certain expressions used in the article might have been considered provocative, but they did not overstep the permissible degree of exaggeration. Given that they were comments on a matter of public interest, they had to be regarded as value judgments rather than statements of fact. However, the domestic courts had failed to make that distinction in their analysis, which was attributable to the fact that the Russian law on defamation at the time did not differentiate between the two, as the Court had found in previous cases. The Court was struck by the fact that neither of the two domestic courts tried to assess whether the information presented in the article had any factual basis by obtaining the original or a certified copy of the audit report. In requiring the editorial board to prove the truth of the statements made in the article while at the same time depriving it of an effective opportunity to adduce evidence to support those statements, the domestic courts had overstepped their margin of appreciation. The Court could further not follow the logic implied in their reasoning that, in the absence of criminal prosecution of the public officials, no media could have published an article linking them to instances of alleged misuse of public funds without running the risk of being successfully sued for defamation. The Court concluded that the interference with the newspaper's freedom of expression had been disproportionate to the aim pursued and had thus not been "necessary in a democratic society", in violation of Article 10.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Russia was to pay the applicant 866 euros in respect of pecuniary damage.

Sofranschi v. Moldova (no. 34690/05) (Importance 2) – 21 December 2010 – Violation of Article 10 – Domestic authorities' failure to adduce "relevant and sufficient" grounds for the interference with the applicant's right to freedom of expression

In May 2003 during a local election campaign, the applicant, a member of the electoral staff of one of the candidates, wrote a letter to the President of Moldova which was critical of V.P., a candidate for the position of mayor of their village, accusing V.P. of numerous abuses. V.P. initiated civil defamation proceedings against the applicant and claimed compensation. The applicant was found guilty of defamation.

The applicant complained that the domestic courts' decisions had entailed interference with his right to freedom of expression that could not be regarded as necessary in a democratic society.

The Court noted that the applicant's letter contained both factual allegations of irregular conduct on the part of V.P. and value judgments about his unethical behaviour. It has been the Court's consistent view that, while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfill and infringes freedom of opinion itself, which is a fundamental part of the rights secured by Article 10. In the present case, the Court considered that some of the impugned statements made by the applicant were value judgments that represented the applicant's subjective appraisal of V.P.'s personality. The burden of proof in respect of these expressions was obviously impossible to satisfy. The Court finally considered that the most important aspect of its assessment of the proportionality of the interference in the present case is the limited impact of the impugned statements, due to the fact that the applicant addressed his complaint by way of private correspondence to State officials and did not make it public to the outside world. Having regard to the above considerations, the Court found that the Moldovan courts did not adduce "relevant and sufficient" grounds for the interference with the applicant's right to freedom of expression. There had therefore been a violation of Article 10 of the Convention. The Court held that the respondent State was to pay the applicant EUR 65 in respect of pecuniary damage, EUR 3,000 in respect of non-pecuniary damage and EUR 150 in respect of costs and expenses;

- **Protection of property**

Almeida Ferreira and Melo Ferreira v. Portugal (no. 41696/07) (Importance 1) – 21 December 2010 – No violation of Article 1 of Protocol No. 1 – The domestic authorities' struck a fair balance between the interests of the community and the applicants' rights concerning the applicants' request to terminate the lease of a property for which they had been the tenants for more than 20 years

In 1980 the applicants rented out property of which they are the life tenants and which will revert to their son on their deaths. In 2002, as they needed the property they applied to the courts to have the lease terminated. The Oliveira de Azeméis District Court refused their request by automatically applying a Law of 1979 that prevented the owner from terminating a lease in any circumstances where the tenant had been living in the property for 20 years or more. The Porto Court of Appeal upheld the judgment. In March 2007 the Constitutional Court dismissed an appeal by the applicants. It found, among other things, that the Law of 1979 had already been in force when they had first rented out the property and considered that the application of the Law, which aimed to provide social protection, was not contrary to their right of property.

The applicants complained that the automatic application of the legislation on residential leases preventing them from terminating their lease had infringed their right respect for peaceful enjoyment of possessions.

The Court observed that the State, which had a wide margin of appreciation in that area, might wish to afford broader protection to the interests of tenants having longer and more secure contracts. In that case, the legislature merely enacted measures that it considered appropriate for regulating the housing market with the aim of providing increased protection to certain categories of tenants. The Court could not call into question that sort of political choice by the legislature, as it was a measure that served the general interest and did not appear manifestly unreasonable. Admittedly, the Portuguese courts had not been able to weigh up the respective interests of the property owners and the tenant, as the restriction on the owners' right had been applied automatically in accordance with the law. However, the absolute character of a law was not, in itself, incompatible with the Convention (such rules aimed in particular to promote legal certainty and avoid inconsistencies). The Court also gave decisive weight to the fact that the restriction in question had already been in force (since 1979) when the applicants had signed the lease in question (1980). They had therefore already known at that time that, under Portuguese law, they could request termination of the lease if they or their children needed housing, but that if the lease were to extend beyond a period of 20 years, they would be debarred from doing so by the statutory restriction. In those circumstances the restriction on the applicants' right could not be deemed to be disproportionate or unjustified; it struck a fair balance between the interests of the community and the right of the applicants. The Court accordingly concluded, by five votes to two, that there had been no violation of Article 1 of Protocol No. 1.

Judges Karakaş and Raimondi expressed a separate opinion, which is annexed to the judgment.

- **Disappearances cases in Chechnya**

Malika Dzhamayeva and Others v. Russia (no. 26980/06) (Importance 3) – 16 December 2010 - Violations of Article 2 (substantive and procedural) – (i) Disappearance and presumed death of the applicants' close relative, Khamid Mukayev, following his unacknowledged detention by State servicemen – (ii) Lack of an effective investigation – Violation of Article 3 – Mental suffering in respect of the applicants – 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

Udayeva and Yusupova v. Russia (no. 36542/05) (Importance 3) – 21 December 2010 – Violation of Article 2 (procedural) Lack of an effective investigation into the death of the applicants' sons – No violation of Article 2 (substantive) – Lack of the required standard of proof "beyond reasonable doubt" that the military forces were implicated in the deaths of the applicants' sons

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 21 Dec. 2010: here

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

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

State	Date	Case Title and Importance of the case	Conclusion	Key Words	Link to the case
Bulgaria	21 Dec. 2010	Hovanesian (no. 31814/03) Imp. 2	No violation of Art. 6 §§ 1 and 3 (c) and (e) Violation of Art. 6 § 3 (e)	The lack of legal assistance and of interpretation during the first hours of the police custody did not infringe the applicant's right to a fair hearing, as the applicant understood what the police were saying Hindrance to the applicant's right to benefit from the assistance of a free interpreter, as he had to pay the interpreter's fees himself	Link
Bulgaria	21 Dec. 2010	Stoychev (no. 29381/04) Imp. 3	Violation of Art. 5 §§ 1 (e), 4 and 5	Unlawful detention in a psychiatric hospital, lack of an effective remedy to challenge the lawfulness of the detention and lack of an effective remedy for compensation	Link
France	21 Dec. 2010	Blondeau (no. 48000/07) Imp. 3	No violation of Art. 6 § 1	Proportionate interference with the applicants' right to appeal against prefectural decrees concerning their properties	Link
France	21 Dec. 2010	Compagnie des gaz de pétrole Primagaz (no. 29613/08) Imp. 3 Société Canal Plus and Others (no. 29408/08) Imp. 3	Violation of Art. 6 § 1	Lack of an effective judicial remedy to review the lawfulness of search and seizure orders of the applicants' properties	Link Link
Germany	21 Dec. 2010	Wienholtz (no. 974/07) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings before the tax court (more than seventeen years)	Link
Hungary	21 Dec. 2010	Szepesi (no. 7983/06) Imp. 3	Violation of Art. 5 § 3	Excessive length of detention on remand (more than one year and three months)	Link
Moldova	21 Dec. 2010	Oprea (no. 38055/06) Imp. 2	Violation of Art. 3 Violation of Art. 5 § 3	Lack of adequate medical care in detention The reasons relied upon by the Chişinău Court of Appeal and by the investigating judge in their decisions ordering and extending the applicant's pre-trial detention, were not "relevant and sufficient"	Link
Poland	21 Dec. 2010	Gajewski (no. 27225/05) Imp. 2	Violation of Art. 6 § 1	Lack of impartiality of the tribunal determining the applicant's claim concerning insolvency proceedings	Link
Poland	21 Dec. 2010	Kulikowski (no. 18353/03) Imp. 2	Revision	The Government requested revision of a judgment which they had been unable to execute, as the applicant had died before it could be adopted; The Court decided to award the heirs jointly the amounts it previously awarded to the deceased applicant	Link
Poland	21 Dec. 2010	Nurzyński (no. 46859/06) Imp. 3	Violation of Art. 8	The refusal to allow the applicant to receive family visits during his detention was not in accordance with the law	Link
Poland	21 Dec. 2010	Witek (no. 13453/07) Imp. 3	Violation of Art. 5 § 1 (e) No violation of Art. 5 § 1 (e)	Unlawful detention of the applicant in a psychiatric hospital from June 2006 to January 2007 Justified detention from January to November 2007	Link

			Violation of Art. 5 § 4	Lack of a speedy review of the lawfulness of the detention	
Romania	21 Dec. 2010	Colesnicov (no. 36479/03) Imp. 2	Violation of Art. 3 (substantive)	Poor conditions of detention in Galaţi prison	Link
Russia	21 Dec. 2010	Gladkiy (no. 3242/03) Imp. 2	Two violations of Art. 3 (substantive) No violation of Art. 6 § 1	Poor conditions of detention in detention in facility no. IZ-39/1 in Kaliningrad and lack of adequate medical care in respect of the applicant's tuberculosis The national authorities could not be blamed for not securing the applicant's presence before the appeal court and the appeal court was able adequately to resolve the issues before it on the basis of the case file and the applicant's written submissions (See the 3rd General Report on the CPT's Activities (1992), the 11th General Report on the CPT's Activities (2000) and Report to the Russian Government carried out by the CPT from 2 to 17 December 2001)	Link
Russia	21 Dec. 2010	Kuzmenko (no. 18541/04) Imp. 2	Two violations of Art. 3 (substantive and procedural) No violation of Art. 3	Beatings of the applicant by a police officer in a police station and lack of an effective investigation The applicant's handcuffing was effected in an acceptable manner	Link
Slovakia	21 Dec. 2010	Loveček and Others v. (no. 11301/03) Imp. 3	Violation of Art. 6 § 1	Excessive length of the criminal proceedings (between three years and over one month to six years and over three months)	Link
Slovakia	21 Dec. 2010	Michalko (no. 35377/05) Imp. 3	Violation of Art. 5 § 3 Two violations of Art. 5 § 4 Violation of Art. 5 § 5	Domestic courts' insufficient reasons given to the applicant to deny him release pending trial Lack of an effective remedy to challenge the lawfulness of the applicant's remand in custody; lack of a speedy review of the applicant's remand in custody Lack of an enforceable right to compensation	Link
Slovakia	21 Dec. 2010	Osváthová (no. 15684/05) Imp. 2	Violation of Art. 5 §§ 4 and 5	Lack of a speedy review of the lawfulness of the applicant's remand in custody and lack of an enforceable right to compensation	Link
Turkey	21 Dec. 2010	Doğan and Kalın (no. 1651/05) Imp. 3	Violation of Art. 5 §§ 3 and 4 Violation of Art. 6 § 1 Violation of Art. 13	Excessive length of pre-trial detention (over nine years and six months for the first applicant and over ten years and three months for the second applicant) and lack of an effective remedy to challenge the lawfulness of the detention Excessive length of proceedings (over sixteen years and eight months for two levels of jurisdiction) Lack of an effective remedy	Link
Turkey	21 Dec. 2010	Feti Ateş and Others (nos. 34759/04, 28588/05, 1016/06 and 19280/06) Imp. 3	(First three cases) Violation of Art. 5 § 3 (All four cases) Violation of Art. 6 § 1	Excessive length of pre-trial detention (over eight years and three months in application no. 34759/04; over thirteen years and four months in application no. 28588/05; and over four years and four months in application no. 1016/06) Excessive length of criminal proceedings (the shortest duration of the criminal proceedings in the present case is over seven years	Link

			(Third case) Violation of Art. 6 § 3 (c) in conjunction with Art. 6 § 1 (fairness)	and three months) Lack of legal assistance in police custody	
Ukraine	21 Dec. 2010	Peretyaka and Sheremetyev (nos. 17160/06 and 35548/06) Imp. 3	Violation of Art. 6 § 1	Lack of access to the court of cassation	Link
Ukraine	21 Dec. 2010	Rudenko (no. 35041/05) Imp. 2	Violation of Art. 1 of Protocol No. 1	Unlawful deprivation of property following domestic courts' deviation from the written law in an arbitrary manner without giving reasons	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	07 Dec. 2010	Köse (no. 37616/02) link	Violation of Art. 1 of Prot. 1	The difference between the values of the amounts due to the applicants when their properties were expropriated and when they were actually paid caused them to sustain a loss which upset the fair balance that should have been maintained between the protection of the right to property and the demands of the general interest
Turkey	14 Dec. 2010	Arslantay (no. 9548/06) link	Violation of Art. 6 § 1 (fairness)	Failure to provide the applicant with a copy of the written opinion submitted to the Supreme Military Administrative Court by the Principal Public Prosecutor

4. Length of proceedings cases

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

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

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

State	Date	Case Title	Link to the judgment
Bulgaria	21 Dec. 2010	Arabadzhiev and Alexiev (no. 20484/05)	Link
Bulgaria	21 Dec. 2010	Nachev (no. 27402/05)	Link
Bulgaria	21 Dec. 2010	Nikova (no. 4434/05)	Link
Italy	21 Dec. 2010	Belperio and Ciarmoli (no. 7932/04)	Link
Italy	21 Dec. 2010	Di Matteo and Others (nos. 7603/03, 7610/03, etc)	Link
Slovakia	21 Dec. 2010	Keszeli (no. 34200/06)	Link
Slovakia	21 Dec. 2010	Sirotňák (no. 30633/06)	Link
Slovakia	21 Dec. 2010	Urík (no. 7408/05)	Link
Turkey	21 Dec. 2010	Rahmetullah Bingöl (no. 40848/04)	Link
Ukraine	21 Dec. 2010	Gerega (no. 30713/05)	Link
Ukraine	21 Dec. 2010	Orudzhev (no. 3080/06)	Link

Ukraine	21 Dec. 2010	Sizykh (no. 25914/06)	Link
Ukraine	21 Dec. 2010	Kobchenko (no. 37138/04)	Link
Ukraine	21 Dec. 2010	Kovalev (no. 10636/05)	Link
Ukraine	21 Dec. 2010	Krat (no. 30972/07)	Link
Ukraine	21 Dec. 2010	Kryukov (No. 6) (no. 53249/07)	Link
Ukraine	21 Dec. 2010	Ponomarenko (no. 20930/06)	Link
Ukraine	21 Dec. 2010	Subot (no. 38753/06)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 13 to 27 December 2010**.

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***
Finland	14 Dec. 2010	Olkinuora and Others (no 1420/09) link	Alleged violation of Art. 6 (excessive length of proceedings)	Inadmissible for non-exhaustion of domestic remedies
France	14 Dec. 2010	I. M. (no 9152/09) link	Alleged violation of Art. 3 (risk of being imprisoned and subjected to ill-treatment if expelled to Sudan), Art. 13 (lack of an effective remedy)	Admissible
Georgia	14 Dec. 2010	Khetagurova (no 43253/08; 43254/08 etc.) link	The applicants are inhabitants of South Ossetia, servicemen of the Russian Army assigned to the peace keeping battalion which was deployed in Tskhinvali at the relevant time or next of kin of such persons. The applications concerned hostilities on the territory of South Ossetia in which the armed forces of Georgia and Russia as well as members of South-Ossetia militia had been involved in August 2008, and also several incidents which had immediately preceded those hostilities. Depending on the individual circumstances of their cases, the applicants alleged violations of Articles 2, 3, 8, 13 and 14 and Art. 1 of Prot. 1	Struck out of the list (the applicants no longer wished to pursue their application)
Ireland	14 Dec. 2010	Kelly (no 41130/06) link	Alleged violation of Art. 6 (unfairness of proceedings), Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Italy	14 Dec. 2010	De Mercurio (no 1974/04; 5782/04 etc.) link	Alleged violation of Art. 6 (excessive length of civil proceedings)	Struck out of the list (the applicants no longer wished to pursue their application)
Latvia	14 Dec. 2010	Spūlis (no 2631/10) link	In particular alleged violation of Art. 6 (alleged inadequacy of the proceedings pursued by the applicant with regard to disputing the annulment of his clearance for work with State secrets), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the alleged inadequacy of the proceedings pursued by him with regard to disputing the annulment of his clearance for work with State secrets), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Latvia	14 Dec. 2010	Kuročkins (no 36575/03) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 5 § 3 and Art. 8	Struck out of the list (the applicant no longer wished to pursue his application)
Latvia	14 Dec. 2010	Petrovs (no 14958/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 1 of Prot. 1	Idem.
Lithuania	14	Petrovs (no	Alleged violation of Art. 6 § 1	Idem.

	Dec. 2010	14958/05) link	(excessive length of proceedings), Art. 1 of Prot. 1	
Poland	15 Dec. 2010	Konas (no 54862/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings: near twelve years and four months)	Struck out of the list (friendly settlement reached)
Poland	14 Dec. 2010	Burman (no 8292/02) link	Alleged violation of Articles 3 and 8 (poor conditions of his detention)	Struck out of the list (the applicant no longer wished to pursue his application)
Poland	14 Dec. 2010	Piontek (no 21307/07) link	The application concerned the applicant's claim that his conviction for writing an article concerning a public official breached his right to freedom of expression	Struck out of the list (it is no longer justified to continue the examination of the application)
Poland	14 Dec. 2010	Siedlecki and 9 other applications (no 5246/03) link	Alleged violation of Art. 3 (poor conditions of detention)	Inadmissible for non-exhaustion of domestic remedies
Poland	14 Dec. 2010	Stempniewicz (no 20993/04) link	Idem.	Idem.
Poland	14 Dec. 2010	Szyc (no 18199/06) link	Idem.	Idem.
Poland	14 Dec. 2010	Jurek (no 31888/06) link	Alleged violation of Art. 3 (ill-treatment by the police during interrogation), Articles 3 and 8 (poor conditions of detention), Art. 5 §§ 2, 3 and 5 (failure to inform the applicant about the reasons of his detention and excessive length of detention, lack of adequate compensation in respect of the alleged unlawful detention), Art. 6 §§ 1 and 3 (unfairness of proceedings), Art. 8 (censorship of the applicant's letters to his family and to the ombudsman)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 3 and Art. 5 § 5), partly inadmissible as manifestly ill-founded (concerning claims under Art. 6 §§ 1 and 3 and Art. 8), partly inadmissible for non-respect of the six-month requirement (concerning claims under Art. 5 § 1, 2 and 3)
Poland	14 Dec. 2010	Ewiak (no 7446/03) link	Alleged violation of Art. 3 (poor conditions of detention)	Inadmissible for non-exhaustion of domestic remedies
Poland	14 Dec. 2010	Śmietana (no 39877/03) link	Idem.	Idem.
Poland	14 Dec. 2010	Staruch (no 5882/05) link	Idem.	Idem.
Poland	14 Dec. 2010	Gerter (no 7441/05) link	Idem.	Idem.
Poland	14 Dec. 2010	Szubski (no 10874/05) link	Idem.	Idem.
Poland	14 Dec. 2010	Duleba (no 5346/06) link	Idem.	Idem.
Poland	14 Dec. 2010	Gongor (no 37130/06) link	Idem.	Idem.
Poland	14 Dec. 2010	Kuźmicz (no 44/07) link	Idem.	Idem.
Poland	14 Dec. 2010	Józefowski (no 38858/07) link	Idem.	Idem.
Poland	14 Dec. 2010	Pisarkiewicz (no 222/05) link	Alleged violation of Articles 3 and 8 (overcrowding and inadequate conditions of detention)	Idem.
Poland	14 Dec. 2010	Górski (no 10827/07) link	Alleged violation of Articles 3 and 8 (overcrowding and the inadequate conditions of their detention), Art. 14 (discrimination by prison staff on	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Articles 3 and 8), partly inadmissible as

			ground of religion)	manifestly ill-founded (failure to substantiate claims under Art. 14)
Poland	14 Dec. 2010	Pasek (no 1551/08) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings and refusal of the legal-aid lawyer to lodge a cassation appeal to the Supreme Court)	Partly struck out of the list (unilateral declaration of the Government concerning the legal-aid lawyer's refusal to lodge a cassation appeal), partly inadmissible as manifestly ill-founded (failure to substantiate complaints concerning the remainder of the application)
Poland	14 Dec. 2010	Nikołajuk (no 8553/09) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (unilateral declaration of Government)
Poland	14 Dec. 2010	Sapiejka (no 10058/09) link	Alleged violation of Art. 6 § 1 (legal-aid lawyer's refusal to file a cassation appeal)	Struck out of the list (friendly settlement reached)
Portugal	14 Dec. 2010	Rodrigues Da Fonseca (no 3674/10) link	Alleged violation of Articles 6 § 1, 13, 14, 17, 34, 41 and 46 and Art. 1 of Prot. 1 (excessive length of civil proceedings)	Idem.
Portugal	14 Dec. 2010	Neto (no 42910/09) link	Idem.	Idem.
Portugal	14 Dec. 2010	Goncalves Ramos (no 13629/09) link	Alleged violation of Art. 6 § 1 (excessive length of administrative proceedings)	Idem.
Portugal	14 Dec. 2010	Gouveia Teixeira (no 351/09) link	Idem.	Idem.
Portugal	14 Dec. 2010	Goncalves Ramos (no 9847/09) link	Idem.	Idem.
Portugal	14 Dec. 2010	Fonseca Mendes (no 58230/08) link	Alleged violation of Articles 6 § 1, 13, 14, 17, 34, 41 and 46 and Art. 1 of Prot. 1 (excessive length of criminal proceedings)	Idem.
Portugal	14 Dec. 2010	Ferraz De Campos and Boavida Campos (no 323/09) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
the Czech Republic	14 Dec. 2010	Holub (no 24880/05) link	Alleged violation of Art. 6 § 1 (unfairness of proceedings)	Inadmissible (since the three conditions put down in Article 35 § 3 b) of the Convention as amended by Prot. 14 are met in the present case, the Court deems that this complaint is to be declared inadmissible; the applicant was deemed not to have suffered a significant disadvantage)
Russia	14 Dec. 2010	Linkov (no 48508/06) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of the judgment in the applicant's favour), Art. 6 § 1 (excessive length of civil proceedings)	Partly struck out of the list (the matter concerning the enforcement has been resolved in domestic level), partly inadmissible as manifestly ill-founded (reasonable length of proceedings concerning Art. 6 § 1)
Russia	14 Dec. 2010	Okhrimenko and Others (no 30130/06; 33338/06 etc.) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of the judgment in the applicants' favour)	Struck out of the list (the matter concerning the enforcement has been resolved at the domestic level)
Russia	14 Dec. 2010	Krutovy (no 33991/02; 15177/05 etc.) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of the judgment in the applicants' favour); Some applicants raised additional complaints with reference to various Articles of the	Partly struck out of the list (the matter concerning the enforcement has been resolved at the domestic level), partly inadmissible as manifestly ill-founded (no violation of the rights

			Convention and its Protocols	and freedoms protected by the Convention concerning the remainder of the application)
Russia	14 Dec. 2010	Kiryanova (no 10834/04; 8567/05; 12680/05) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of the judgment in the applicant's favour), Articles 2, 3, 5, 6 and 13 and Art 3 of Prot. 7 (various procedural violations during the criminal proceedings)	Idem.
Russia	14 Dec. 2010	Maizel (no 17395/04; 39398/04 etc.) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (delayed enforcement of the judgment in the applicant's favour) Some applicants raised additional complaints with reference to various Articles of the Convention and its Protocols	Idem.
Russia	14 Dec. 2010	Dulush and Others (no 17383/04) link	Alleged violation of Art. 5 §§ 1 and 3 (unlawfulness and excessive length of detention on remand) and Articles 6 § 1 and 13 (excessive length of proceedings)	Struck out of the list (the applicants no longer wished to pursue their application)
Serbia	14 Dec. 2010	Ribić (no 16735/02) link	The application concerned the non-enforcement of three foreign currency related judgments in the applicant's favour, and an alleged infringement of the applicant's right to life	Incompatible *ratione temporis* and *ratione materiae*
Serbia	14 Dec. 2010	Simić (no 34479/06) link	The applicants complained about the continuing refusal of the respondent State to release all of their foreign currency deposits instantaneously, together with the interest originally stipulated	Incompatible *ratione temporis* and *ratione personae*
Slovakia	14 Dec. 2010	Drahula (no 32171/10) link	Alleged violation of Art. 6 § 1 and Art. 13 (excessive length of civil proceedings, which started in 1995 and are still pending)	Struck out of the list (friendly settlement reached)
Slovakia	14 Dec. 2010	Kičinová (no 3377/09) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings, which started in 2000 and are still pending)	Idem.
Slovakia	14 Dec. 2010	Bartl (no 43298/07) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings, which lasted from 1991 to 2009)	Idem.
Slovakia	14 Dec. 2010	Hrivňák (no 35170/05) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Inadmissible for non-exhaustion of domestic remedies
Slovakia	14 Dec. 2010	Jesenská and Jesenský (no 1876/07) link	Idem.	Idem.
Switzerland	14 Dec. 2010	Luschin (no 28174/08) link	Alleged violation of Art. 5 §§ 1 and 4 (unlawful detention and lack of an effective remedy to challenge the lawfulness of the detention, lack of a speedy review of the lawfulness of the detention)	Struck out of the list (the applicant no longer wished to pursue his application)
"the Former Yugoslav Republic Of Macedonia"	14 Dec. 2010	Mustafovski (no 50111/07) link	The applicant complained about the excessive length of civil proceedings which began in 1998 and ended in 2007)	Idem.
the United Kingdom	14 Dec. 2010	Hussain (no 7028/07) link	Alleged violation of Articles 2 and 3 (risk of being subjected to ill-treatment if expelled to Somalia) and Art. 8 (interference with the applicant's right to respect for family life)	Idem.
the United Kingdom	14 Dec. 2010	Alnour (no 1682/07) link	Alleged violation of Articles 2 and 3 (risk of subjected to ill-treatment if expelled to Sudan)	Struck out of the list (the applicant had been granted asylum in the United Kingdom and no longer wished to pursue his application)

Turkey	14 Dec. 2010	Yilmaz and 51 other applications (no 34324/06) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Turkey	14 Dec. 2010	Yücedağ and Uzlan (no 12997/10) link	Alleged violation of Art. 6 § 1 and Art. 13 (excessive length of criminal proceedings, which started in 1999 and are still pending)	Idem.
Turkey	14 Dec. 2010	Alir (no 49940/09) link	Alleged violation of Art. 6 § 1 and Art. 13 (excessive length of criminal proceedings, which started in 1998 and ended in 2009)	Idem.
Turkey	14 Dec. 2010	Demir (no 14645/10) link	Alleged violation of Art. 6 § 1 and Art. 13 (excessive length of criminal proceedings, which started in 2002 and are still pending)	Idem.
Turkey	14 Dec. 2010	Ekinci (no 3872/10) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings which started in 1997 and ended in 2009)	Idem.
Turkey	15 Dec. 2010	Damar (no 12934/05) link	Alleged violation of Articles 5 §§ 3, 4 and 5, 6 §§ 1 and 2, 13 and 14 (in particular excessive length of proceedings and pre-trial detention)	Idem.
Turkey	14 Dec. 2010	Ergün (no 4394/04; 35684/04 etc.) link	Alleged violation of Art. 1 of Prot. 1 (annulations of the necessary authorisations allowing the applicants to use their building), Art. 6 (unfairness of proceedings)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (lack of sufficient evidence to establish a violation concerning the remainder of the application)
Ukraine	14 Dec. 2010	Klyuchka and 2 other applications (no 10397/06; 10079/07; 1324/08) link	The application concerned in particular the delayed enforcement of final judgments in the applicants' favour; some of the applicants raised additional complaints	Partly struck out of the list (unilateral declaration of the Government concerning the delayed enforcement of final judgments in the applicants' favour, **in line with the Court's pilot judgment *Yuriy Nikolayevich Ivanov v. Ukraine* concerning this matter)**, partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	14 Dec. 2010	Dumnych and 15 other applications (no 34901/04; 21720/05 etc.) link	Idem.	Idem.
Ukraine	14 Dec. 2010	Vekker and 5 other applications (no 33702/04; 45785/05) link	Idem.	Idem.
Ukraine	14 Dec. 2010	Franchuk and 5 other applications (no 13020/06; 3831/07 etc.) link	Idem.	Idem.
Ukraine	14 Dec. 2010	Lytvynenko and 8 other applications(no 16093/06; 16822/06 etc.) link	Idem.	Idem.
Ukraine	14 Dec. 2010	Kovalenko and 8 other applications	Idem.	Idem.

		(no 7750/07; 8879/07 etc.) link		

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 3 January 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 3 January 2011 on the Court's Website and selected by the NHRS Unit

The batch of 3 January 2011 concerns the following States (some cases are however not selected in the table below): Austria, Azerbaijan, Bulgaria, France, Georgia, Greece, Hungary, Italy, Lithuania, Moldova, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Switzerland, the Czech Republic and Turkey.

State	Date of Decision to Communicate	Case Title	Key Words of questions submitted to the parties
Hungary	07 Dec. 2010	Tóth no 48494/06	Alleged violation of Art. 8 – Hindrance to the applicant's ability to launch proceedings to have his biological paternity established
Moldova	06 Dec. 2010	Iurcu no 33759/10	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment by the police officers – (ii) Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy
Russia	08 Dec. 2010	Zakharov no 13114/05	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 his conviction for statements made on television during election debates
Russia	06 Dec. 2010	Kislitsina no 47913/07	Alleged violations of Art. 2 (substantive, positive and procedural) – (i) Domestic authorities' positive obligation and responsibility for the applicant's son's suicide during police custody after alleged abusive treatment to which the applicant's son, a minor, was subjected during police custody – (ii) Lack of an effective investigation – Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment of the applicant's son in police custody – (ii) Lack of an effective investigation – Alleged violation of Art. 13 – Lack of an effective remedy in respect of the claims under Articles 2 and 3
Turkey	07 Dec. 2010	Alpboğa no 63562/09	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 his conviction for comments made on the radio about a CEO and the former Minister of Energy and Natural Resources – Alleged violation of Art. 6 § 1 – Excessive length of civil and criminal proceedings

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 8 to 10 March 2010 (the 1108DH 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)

Reports submitted by States on the theme "Children, migrants and families" in view of Conclusions 2011

The following States have submitted reports to date: Albania, Andorra, Austria, Azerbaijan, Belgium, Croatia, Czech Republic, France, Iceland, Italy, Georgia, Latvia, Lithuania, Moldova, Slovak Republic Spain, Sweden, Ukraine. Link to national reports

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)

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E. Group of States against Corruption (GRECO)

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

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

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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

20 December 2010:

The **Netherlands** accepted the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182).

21 December 2010

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

Moldova signed the Council of Europe Convention on Access to Official Documents (CETS No. 205).

B. Recommendations and Resolutions adopted by the Committee of Ministers

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C. Other news of the Committee of Ministers

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

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*

Markku Laukkanen calls for limits on new media authority in Hungary (23.12.2010)

"In a democracy, media must not be treated as enemies of the state. The Media and Communications Authority to be established in Hungary on 1 January is an alarming sign that Hungary wishes to police the media," said Markku Laukkanen (Finland, ALDE), the Chairman of the Sub-Committee on the Media of the Parliamentary Assembly of the Council of Europe (PACE). "Article 10 of the European Convention on Human Rights protects freedom of expression, information and opinion throughout Europe. We see an overly broad Hungarian legislation, which enables state authorities to impose severe sanctions on media for having raised political criticism. This will cause a severe chilling effect on media freedom and would therefore in principle violate Article 10," Mr Laukkanen said. "The PACE Sub-Committee on the Media will discuss the state of media freedom in Europe in January 2011. I do hope that the Hungarian government will have clearly set by then the limits on this new Media and Communications Authority, which must not function like the censorship bodies sadly known in Hungary under communist and fascist rule. Media censorship has no place in the democratic Europe of today."

➢ *Themes*

Belarus: PACE rapporteur condemns violence on the streets of Minsk (20.12.2010)

PACE rapporteur for Belarus, Sinikka Hurskainen (Finland, SOC) has expressed her deep concern at the episodes of violence on the streets of Minsk following the presidential elections on Sunday 19 December. "I am particularly alarmed by reports that countless arrests have been made, also of several opposition leaders, including presidential candidates, activists and journalists, who appear to have been beaten by police," she said. Ms Hurskainen was in Minsk as a member of the election observation mission of the OSCE Parliamentary Assembly. Despite specific improvements in the electoral legislation and during the electoral campaign, she regretted problems with the actual voting and counting process. "As an election observer, I was given no chance to watch the vote counting. The ballots were quickly taken away by the members of the election commission and were not read aloud in front of us. After a while, we were just presented with the result," she said. The PACE rapporteur on Belarus urged both security forces and protesters to refrain from any further recourse to violence throughout the election and post-election process. She also called on the authorities to release anyone detained solely for the expression of their views regarding the outcome of the elections. "All individuals and groups should be able to peacefully exercise their rights to freedom of expression and assembly, including when criticising the Belarusian authorities and the electoral process. I regret that these elections represent a missed opportunity for bringing Belarus closer to European values and principles," she concluded. Parliamentary statement on the presidential elections in Belarus

Christos Pourgourides: still no justice in the Khodorkovsky case (27.12.2010)

'The guilty verdict and especially the very harsh sentence announced against Mr Khodorkovsky does not deliver justice but instead serves only political ends,' stated Christos Pourgourides, Chairman of the Committee on Legal Affairs and Human Rights of PACE. 'I condemn this judgment as another infringement of the rule of law in a country where the judiciary is not free from political interference, contrary to the obligations and commitments stemming from Russia's membership in the Council of Europe', added Mr Pourgourides. Resolution 1685 on allegations of politically motivated abuses of the

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

criminal justice system in Council of Europe member states Resolution 1418 on the circumstances surrounding the arrest and prosecution of leading Yukos executives

PACE President condemns attack in Alexandria (02.01.2011)

"I am deeply shocked by the attack against a Christian church in Alexandria (Egypt), which caused the death of at least 21 people and wounded many others. I extend my sincere condolences to the families of those dead as well as to the authorities of Egypt. Terrorism remains the greatest threat to the universal values of human rights," said PACE President Mevlüt Çavusoglu.

"As the Assembly stated recently, the manipulation of religious beliefs for political reasons violates human rights and democratic values. The Statute of the Council of Europe defines as a priority to work for freedom of religion, while combating religious intolerance and discrimination as well as religiously disguised attacks against the values it upholds." Resolution 1743 (2010) on Islam, Islamism and Islamophobia

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

Austerity budgets will cause further child poverty (21.12.2010)

While the European Union promoted 2010 as the "European Year Against Poverty", several member States presented austerity budgets which will inevitably push more people into destitution. Among the poor are already large numbers of children and it is obvious that the struggle against child poverty will now face further difficulties, says the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, in his latest Human Rights Comment published on 21 December. Child poverty was widespread even before the current economic crisis – also in Europe. One example is the United Kingdom where this issue has been high on the political agenda for several years. In spite of some considerable political efforts, the poverty among children has persisted on large scale. No less 2.8 million children in the UK are now estimated to live in poverty. Read the Comment

Part VII: Activities of the Peer-to-Peer Network

(under the auspices of the NHRS Unit of the Directorate General of Human Rights and Legal Affairs)

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