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The progress of the Assembly's monitoring procedure

Second cycle periodic reports on the honouring of statutory obligations by Norway, Poland, Portugal, Romania, San Marino, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland and the United Kingdom, based on a compilation of conclusions and recommendations issued by Council of Europe monitoring mechanisms as of May 2011

Addendum to the report
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Dick MARTY, Switzerland, Alliance of Liberals and Democrats for Europe

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1. Web sites of relevant Council of Europe institutions and bodies

Committee of Ministers: http://www.coe.int/t/cm/home_en.asp

Parliamentary Assembly: http://assembly.coe.int/default.asp

Congress of Local and Regional Authorities: http://www.coe.int/T/Congress/Default_en.asp

European Court of Human Rights: http://www.echr.coe.int/echr/Homepage_EN

Commissioner for Human Rights: http://www.coe.int/t/commissioner/default_en.asp

Human Rights and Legal Affairs: http://www.coe.int/t/dghl/default_en.asp

Treaty Office: http://www.coe.int/t/dlapil/default_en.asp

European Charter for Regional or Minority Languages: http://www.coe.int/t/dg4/education/minlang/Default_en.asp

11 May 2011

2. NORWAY

Council of Europe member state since **5 May 1949**

Number of Council of Europe Conventions ratified (as of 11 May 2011): **142** (out of 210)

Number of Council of Europe Conventions signed (as of 11 May 2011): **12**

I. PLURALISTIC DEMOCRACY[1]

A. Free and fair elections

System of government: constitutional monarchy

Last general elections: **2009**

Next general elections: **2013**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed and ratified on 26 May 1989, entered into force on 1 September 1989

Last **Congress of Local and Regional Authorities** monitoring report: November 2006 [CPL(13)7] and **Recommendation 203 (2006)** on the compliance of Norwegian legislation with Article 11 of the European Charter of Local Self-Government adopted on 15 November 2006

II. RULE OF LAW

A. VENICE COMMISSION

Extracts of: **Joint opinion on the electoral legislation of Norway** adopted by the Council for Democratic Elections at its 35th meeting (Venice, 16 December 2010) and by the Venice Commission at its 85th Plenary Session (Venice, 17-18 December 2010, CDL-AD(2010)046):

"I. Introduction

1. In a letter dated 31 May 2010, Mr Dag Henrik Sandbakken, Secretary of State of the Norwegian Ministry of Local Government and Regional Development (the Ministry) requested an evaluation of those aspects of the Electoral System of Norway relating to electoral dispute resolution from the European Commission for Democracy through Law (the Venice Commission). More specifically, the Commission was requested to assess "*the provisions regarding the adjudication of complaints and appeals, and approval of elections, and how these would relate to Norway's international obligations*". These provisions are notably Article 55 of the Constitution (CDL-EL(2010)026) and Chapter 13 of the Representation of the People Act (CDL-EL(2010)025).

2. The request is part of the effort by Norway to follow up to the recommendations made in the final report of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Election Assessment Mission to the 14 September 2009 parliamentary elections. Follow up activities included OSCE/ODIHR visits to present the report in Norway and a visit of the Ministry to Warsaw to discuss possible areas of reform. […]

VI. Conclusion

42. Norway has a long tradition of holding democratic elections which enjoy a high level of public confidence. The current Norwegian legislation on electoral dispute resolution is based on constitutional and legal traditions, maintaining a separation of powers to ensure the sovereignty of the parliament. In Norway the parliament is the final arbiter not only of the legality of the elections but of all election-related questions (in national elections). It is also important to note that election-related complaints are very rare in Norway; during the 2009 parliamentary elections only four complaints were submitted.

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1. The non-governmental organisation Freedom House gives to Norway a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

43. However, the system of appeals in electoral matters does diverge from international commitments and standards, as well as good practice. Norwegian citizens are left without an option of timely appeal to independent courts in matters regarding the exercise of the right to choose their local government, their national Parliament and, indirectly, their national government. Similarly, the courts do not play a role in the final validation of elections.

44. In order to meet international standards and commitments, Norway should include the judiciary in the process of electoral dispute resolution. It should provide for final appeal on all election-related complaints to a court. Furthermore, the final validation of the election should include a possibility of appeal to a high judicial body, such as the Supreme Court. This solution would entail the need for a constitutional amendment.

45. Allowing for final appeal on all electoral complaints can be achieved through various approaches: by using for appeals relevant bodies from the existing court structure, as is the case in Switzerland; by using an ad-hoc system of judicial bodies for all stages of the complaints and appeals process, as is the case in the United Kingdom; or by creating a standing specialised legal structure for complaints, as in Mexico. But international standards and commitments call for the final right of appeal to a court from decisions on all electoral matters made by the National Election Committee and Parliament of Norway, in the case of national elections, or the Ministry, in the case of local elections.

46. Additionally, the current legal framework in Norway does not set time limits for dealing with electoral appeals.[2] A comparative survey shows that the legal requirement of short time limits for the appeal procedures is not systematic in Europe. Nevertheless, it is recommended that election-related appeal procedures be developed to guarantee timely decisions on all electoral matters in dispute. Even if there were a decision to create a specialised court for election disputes to ensure an effective remedy, good practice suggests that establishing time limits for complaints and appeals would be beneficial. Reasonably short time limits at all levels of the adjudication process would also address the 1962 Supreme Court's concern that swift decisions be made in electoral matters.

47. The establishment of time limits can be implemented in various manners. One possibility is that as a general norm all electoral disputes could be considered as of an "urgent" nature, and that a Court seized of a particular electoral question, both ex post and ex ante, must deal with the case according to the provisions for matters of urgency in its national Code of Procedure. Where and if the terms of "urgency" are not short enough to provide for an effective remedy, the imposition of fixed time limits in a number of days could also be considered."

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Norway was **€ 69,2**;

– the **number of professional judges** in 2008 in Norway was **537,** this means 11.3 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Norway was **730**, this means 15.4 for 100 000 inhabitants.

C. The fight against corruption and organised crime[3]

Civil Law Convention on Corruption (ETS No. 174) signed on 4 November 1999, ratified on 12 February 2008, entered into force on 1 June 2008

Criminal Law Convention on Corruption (ETS No. 173) signed on 27 January 1999, ratified on 2 March 2004, entered into force on 1 July 2004, Additional Protocol (ETS No. 191) signed and ratified on 2 March 2004, entered into force on 1 February 2005

Press release of 5 May 2009:

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2. In practice, appeals in Norway are only considered after election day, except those related to candidate registration. Norway, 2009 Parliamentary Elections, OSCE/ODIHR Election Assessment Mission Report, p. 22.

3. Norway is in 10th position with a score of 8.6 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

"The Council of Europe's Group of States against Corruption (GRECO) has published today its Third Round Evaluation Report on Norway. The report has been made public following the agreement of the Norwegian authorities. It focuses on two distinct themes: criminalisation of corruption and transparency of party funding.

Regarding the criminalisation of corruption [theme I], GRECO finds that the provisions on corruption and trading in influence in the Norwegian Penal Code are of a high standard and fully in line with the Criminal Law Convention on Corruption (ETS No. 173) and its Additional Protocol (ETS No. 191). Nevertheless, to prevent possible problems in the application of the law in practice and to fine-tune existing provisions, GRECO recommends to give consideration to introducing a provision on aggravated trading in influence and to reconsider the use of juries in appeal cases involving aggravated corruption.

Concerning transparency of party funding [theme II], GRECO commends Norway for the changes which the legal framework for the funding of political parties underwent in 2006. However, further improvements are required in light of Recommendation Rec(2003)4 of the Committee of Ministers of the Council of Europe on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns. First of all, the picture of the possible (financial) ties of parties as well as the manner in which the political parties spend public funding needs to be as comprehensive and easy to understand as possible. In addition to the current disclosure of income, parties should therefore also be required to provide further information on their expenditure, as well as their debts and assets. Furthermore, the current supervisory mechanism provides for a very limited and mainly formalistic supervision of party financing and relies too heavily on the media to detect and uncover possible dubious funding practices – a matter that needs to be addressed. Finally, the current system would benefit from the introduction of more flexible sanctions for violations of the Political Parties Act.

The report as a whole addresses 8 recommendations to Norway. GRECO will assess the implementation of these recommendations in the beginning of 2011, through its specific compliance procedure."

Extract of: Third Evaluation Round: Compliance Report on Norway "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 50th Plenary Meeting [Strasbourg, 28 March – 1 April 2011, GRECORC-III(2011)2E]:

"Conclusions

44. In view of the above, GRECO concludes that Norway has implemented satisfactorily four of the eight recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendation i and ii have been implemented satisfactorily. With respect to Theme II – Transparency of Party Funding, recommendations ii and iii have been implemented satisfactorily, recommendations i, iv, v and vi have been partly implemented.

45. As regards incriminations, GRECO acknowledges that the introduction of a provision on 'gross' trading in influence has been considered, as was required by recommendation i. It furthermore acknowledges that the issue of adjudication of 'gross' corruption by a panel of laymen in appeal cases continues to be examined. As regards transparency of party funding, GRECO welcomes the steps that have been taken towards implementation of its recommendations with the elaboration of a consultation document, containing draft amendments to the Political Parties Act and a comprehensive explanatory memorandum, which are currently subject to a consultation process. If adopted as foreseen, the amendments will create a legal basis for inter alia monitoring the finances of political parties, in line with Article 14 of Recommendation Rec(2003)4, a more flexible sanctioning regime and additional disclosure requirements as regards expenditure, assets and debts as well as certain donations received in the context of an election campaign. GRECO commends the Norwegian authorities for the initiatives underway, which have the potential of suitably addressing GRECO's recommendations.

46. In the light of what has been stated in paragraphs 44 and 45, GRECO notes that Norway has been able to demonstrate that substantial reforms, with the potential of achieving an acceptable level of compliance with the pending recommendations within the next 18 months, are underway. GRECO invites the Head of the delegation of Norway to submit additional information regarding the implementation of recommendations i, iv, v and vi (Theme II – Transparency of Party Funding) by 31 October 2012 at the latest.

47. Finally, GRECO invites the authorities of Norway to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 8 November 1990, ratified on 16 November 1994, entered into force on 1 March 1995

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) neither signed nor ratified

Norway is not a member of MONEYVAL.

III. PROTECTION OF HUMAN RIGHTS[4]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **March 2006,** following a visit to the country in **September 2005**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **15 January 1952**

Protocol No. 6 (ETS No. 114) ratified on **25 October 1988**

Protocol No. 12 (ETS No. 177) signed on **15 January 2003**

Protocol No. 13 (ETS No. 187) ratified on **16 August 2005**

Protocol No. 14 (CETS No. 194) ratified on **10 November 2004**

Out of a total of 1,499 judgments delivered by the Court in 2010, there is **1** concerning Norway: 1 judgment finding no violation.

Out of a total of 139,650 pending cases on 31 December 2010, **80** concerned Norway.

Resolutions adopted by the Committee of Ministers in 2010: **1**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 11 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **26 November 1987**, ratified on **21 April 1989**, entered into force on **1 August 1989**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed and ratified on **4 November 1993**, entered into force on **1 March 2002**

Last country visit: **October 2005**

Publication of the last report: **April 2006**

Next country visit: 2011

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **16 May 2005**, ratified on **17 January 2008**, entered into force on **1 May 2008**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **17 March 1999**, entered into force on **1 July 1999**

Last opinion (2nd cycle) by the Advisory Committee adopted in **October 2006** [ACFC/OP/II(2006)006]

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **June 2007** [CM/ResCMN(2007)11]

Last state report (3rd cycle) received in **July 2010** [ACFC/SR/III(2010)009]

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

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4. Norway shares the 1st position with a score of 0.00 with Finland, Iceland, Netherlands, Sweden and Switzerland in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Eritrea is on the 178th and last position with a score of 105.00).

Convention (ETS No. 148) signed on **5 November 1992**, ratified on **10 November 1993**, entered into force on **1 March 1998**

Last periodic state report (4th cycle) submitted in **July 2008** [MIN-LANG/PR(2008)6]

Last assessment report (4th cycle) of the Committee of Experts adopted in **September 2009** [ECRML(2010)3]

Last recommendation (4th cycle) of the CM adopted in **March 2010** [RecChL(2010)2]

Next periodic state report (5th cycle) due in **July 2011**

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 11 March 2010:

"Council of Europe publishes report on minority languages in Norway

The Council of Europe Committee of Ministers has made public the fourth report on the situation of minority languages in Norway. This report has been drawn up by a committee of independent experts which monitors the application of the European Charter for Regional or Minority Languages.

On the basis of the report, the Committee of Ministers calls on Norway to ensure that social and health care institutions within the Sámi Administrative District offer services in North Sámi.

Furthermore, the Norwegian authorities are encouraged to continue their efforts to provide teaching in or of Lule and South Sámi, including the development of teaching materials and teacher training.

Norway should also continue their efforts to protect and promote the Kven language in particular in education and in the field of broadcast media.

Finally, the Committee of Ministers recommends that Norway take measures to develop language education in Romani and Romanes in co-operation with the speakers."

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the fourth report on Norway was adopted in June 2008 and made public in **February 2009**.

Extracts of press release of 24 February 2009:

"The European Commission against Racism and Intolerance publishes reports on Bulgaria, Hungary and Norway

Ms Eva Smith Asmussen, Chair of the European Commission against Racism and Intolerance (ECRI), announced today the release of the first three reports of a new series of country monitoring, examining racism and intolerance in Europe. The reports on Bulgaria, Hungary and Norway are the first of ECRI's fourth round of country monitoring work, which focuses on the implementation of ECRI's previous recommendations, the evaluation of policies and new developments since its last report.

ECRI underlines that positive developments have occurred in all three of these Council of Europe member states. At the same time, however, the reports detail continuing grounds for concern for ECRI: […]

In Norway, the legal and institutional framework against racism and discrimination has been strengthened and the vast majority of the measures foreseen in the National Plan of Action to Combat Racism and Discrimination (2002-2006) have been implemented. However, the situation of persons of immigrant background remains worrying in sectors such as employment and school education, as well as the situation of Roma and Romani/Taters. Political discourse sometimes takes on racist and xenophobic overtones, and the police still have important challenges to take up, including in the field of addressing racial profiling.

For each of these country monitoring reports an interim follow-up will take place no later than two years after the publication of the reports."

H. SOCIAL RIGHTS

European Social Charter of 1961 (ETS No. 35) signed on 18 October 1961, ratified on 26 October 1962, entered into force on 26 February 1965

European Social Charter (revised) (ETS No. 163) signed and ratified on **7 May 2001**, entered into force on **1 July 2001**

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) signed and ratified on 20 March 1997, entered into force on 1 July 1998

Extract of the website of the European Social Charter (situation as of May 2011):

“Reports *

Between 1964 and 2011, Norway submitted 22 reports on the application of the Charter and 8 reports on the application of the Revised Charter.

The 7th report concerned the provisions accepted by Norway, related to the Thematic Group 3 “Labour rights” (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter). It was submitted on 11 January 2010. Conclusions in respect of these provisions were published in December 2010.

The 8th report, submitted on 27 April 2011, on the accepted provisions of the Revised Charter accepted by Norway relates to Thematic Group 4 "Children, families and migrants":

– the right of children and young persons to protection (Article 7),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19),

– the right of workers with family responsibilities to equal opportunity and treatment (Article 27),

– the right to housing (Article 31).

It was due by 31 October 2010.

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

The situation of Norway with respect to application of the revised Charter

Examples of progress achieved in the application of social rights under the Social Charter[5]

Employment

► Repeal of the Seafarers Act of 17 July 1953, which allowed criminal sanctions to be imposed on seafarers who deserted their post or committed disciplinary offences, even in cases where neither the safety of the vessel nor the lives or health of those on board were in danger (Act of 30 May 1975). Abolition of compulsory service for dentists. *Article 1§2 – prohibition of forced labour.*

► Amendment in 2002 of the 1958 Civil Service Disputes Act improves employees’ representation in wage negotiations. *Article 6§2 – negotiation procedures*

► The Labour Disputes Act, amended in 2002, provides in its Section 35.9 that the mediator can now only join up ballots (*kobling av avstemninger*) relating to several sectors if the parties concerned agree. *Article 6§3 – right to bargain collectively (conciliation and arbitration).*

Movement of persons

► Extension of the scope of family reunion to include children only one of whose parents is living in Norway (1991 immigration directives, as amended in 1997). *Article 19§6 – right to family reunion.*

Non-discrimination (nationality)

5. "1. The [European Committee of Social Rights] … rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure" (Article 2 of the Rules of the Committee).

► Various practical measures to assist foreigners in finding accommodation, such as reserving quotas of existing housing stock for refugees and immigrants, promoting research into multicultural living environments and disseminating information on the legislation providing for equal treatment in access to housing. *Article 19§4 – right to equal treatment with regard to access to housing.*

Education/Health

► Amendment to the Working Environment Act. Section 54 B establishes a prohibition against direct and indirect discrimination on the basis of disability. *Article 15§2 – right to employment of persons with disabilities.*

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

►Article 10§4 – Right to vocational training – Long term unemployed persons

It has not been established that measures aimed at the retraining and re-integration of long-term unemployed persons are adequate. (Conclusions 2008)

► Article 10§5 – Right to vocational training – Full use of facilities available

Equal treatment for non-EU nationals with respect to financial assistance for training is not guaranteed. (Conclusions 2008)

► Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Vocational training for persons with disabilities

The protection against discrimination on grounds of disability in the field of education is insufficient. (Conclusions 2008)

► Article 15§3 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Integration and participation of persons with disabilities in the life of the community

No legislation prohibiting discrimination on grounds of disability covering housing, transport, telecommunications, cultural and leisure activities. (Conclusions 2008)

Thematic Group 2 “Health, social security and social protection”

► Article 12§4 – Right to social security – social security of persons moving between states

Accumulation of insurance periods acquired under the legislation of a State Party which is not covered by Community regulations or not bound by an agreement with Norway is not guaranteed.

(Conclusions 2009)

► Article 13§1 – Right to social and medical assistance – adequate assistance for every person in need

The level of social assistance benefit that is paid to individuals in need who are not participants in the individual qualification programme is not adequate. (Conclusions 2009)

Thematic Group 3 “Labour rights”

► Article 2§1 – Right to just conditions of work – Right to reasonable working time

Legislation provides that total working hours in a twenty-four hour period may, in certain circumstances, be up to sixteen hours. (Conclusions 2010)

► Article 4§5 – Right to a fair remuneration – Limits to deduction from wages

Workers may waive their right to limitation of wage deductions. (Conclusions 2010)

► Article 6§4 – Right to bargain collectively – Collective action

During the reference period (2005-2006), legislation was enacted in order to terminate collective action in the state sector in circumstances which went beyond those permitted by Article G of the Revised Charter[6]. (Conclusions 2010)

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6. Previous such interventions to terminate collective action was the subject of RecChS(93)2 adopted on 7 September 1993 by the Committee of Ministers.

Thematic Group 4 “Children, families, migrants”

► Article 7§3 – Right of children and young persons to protection – Prohibition of employment of children subject to compulsory education

The rest period of young persons aged under 18 still subject to compulsory education who work is not sufficient during summer holidays and throughout the year. (Conclusions 2006)

►Article 7§5 – Right of children and young persons to protection – Fair pay

Norway has failed to provide information showing that young workers and apprentices have an effective right to a fair remuneration or to appropriate allowances. (Conclusions 2006)

►Article 7§6 – Inclusion of time spent on vocational training in the normal working time

Right of children and young persons to protection

Young workers are not entitled to have their training time paid as working hours. (Conclusions 2006)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Norwegian Government to provide more information in the next report:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2011)

► Article 1§2 – Conclusions 2008

► Article 1§3 – Conclusions 2008

Thematic Group 2 “Health, social security and social protection”

(Report to be submitted before 31 October 2012)

► Article 12§1 – Conclusions 2009

► Article 14§1 – Conclusions 2009

Thematic Group 3 “Labour rights”

(Report to be submitted before 31 October 2013)

► Article 4§2 – Conclusions 2010

► Article 21 – Conclusions 2010

Thematic Group 4 “Children, families, migrants”

(Report to be submitted before 31 October 2010 – conclusions to be adopted before the end of 2011)

► Article 7§8 – Conclusions 2006

► Article 8§3 – Conclusions 2005

► Article 31§1 – Conclusions 2005

► Article 31§2 – Conclusions 2005

► Article 31§3 – Conclusions 2005”

I. Parliamentary Assembly

No specific recent text concerning Norway

11 May 2011

3. POLAND

Council of Europe member state since **26 November 1991**

Number of Council of Europe Conventions ratified (as of 11 May 2011): **84** (out of 210)

Number of Council of Europe Conventions signed (as of 11 May 2011): **16**

I. PLURALISTIC DEMOCRACY[7]

A. Free and fair elections

System of government: parliamentary democracy

Last presidential elections: **2010**

Next presidential elections: **2015**

Last general elections: **2007**

Next general elections: **2011**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 19 February 1993, ratified on 22 November 1993, entered into force on 1 March 1994

Last Congress of Local and Regional Authorities monitoring report: November 2002

II. RULE OF LAW

A. VENICE COMMISSION

No opinion concerning Poland

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Poland was **€40,9**;

– the **number of professional judges** in 2008 in Poland was **9,890**, this means 25.9 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Poland was **5,379**, this means 14.1 for 100 000 inhabitants.

C. The fight against corruption and organised crime[8]

Civil Law Convention on Corruption (ETS No. 174) signed on 3 April 2001, ratified on 11 September 2002, entered into force on 1 November 2003

Criminal Law Convention on Corruption (ETS No. 173) signed on 27 January 1999, ratified on 11 December 2002, entered into force on 1 April 2003, Additional Protocol (ETS No. 191) neither signed nor ratified

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Poland** adopted by GRECO at its 39th Plenary Meeting [Strasbourg, 6-10 October 2008, GrecoRC-II(2006)5Eaddendum]:

“Conclusion

14. In addition to the conclusions contained in the Second Round Compliance Report on Poland and in view of the above, GRECO concludes that recommendation ix has been implemented satisfactorily and recommendation vi has not been implemented. GRECO welcomes the fact that almost all of the nine recommendations addressed to Poland in the Second Round Evaluation Report have been implemented satisfactorily or dealt with in a satisfactory manner. Nevertheless, GRECO invites the authorities to step up

7. The non-governmental organisation Freedom House gives to Poland a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

8. Poland is in 41st position with a score of 5.3 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

their efforts to take measures in respect of the prohibition of improper movements by public officials to private entities as required by recommendation vi. GRECO acknowledges that several attempts have been made to implement this recommendation by legal amendment and encourages the authorities to vigorously pursue the current legislative project in this respect.

15. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Poland. The Polish authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendation vi.

16. Finally, GRECO invites the Polish authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

Press release of 17 February 2009:

"Group of States against Corruption publishes report on Poland

The Council of Europe's Group of States against Corruption (GRECO) today published its Third Round Evaluation Report on Poland. The report has been made public with the agreement of the country's authorities. It focuses on two distinct themes: criminalisation of corruption and transparency of party funding.

Regarding the criminalisation of corruption (theme I), GRECO recognises that, on the whole, Polish legislation complies with the Council of Europe's Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). GRECO acknowledges the legislative measures undertaken, including recent amendments relating to private sector bribery.

Nevertheless, GRECO calls on Poland to address some deficiencies identified in the current legislation, regarding among other issues, the applicability of corruption offences to foreign arbitrators as defined by the Additional Protocol to the Convention, the jurisdiction over corruption offences committed abroad and the potential of misuse involved in the defence of 'effective regret', which occurs when an offender reports a crime after its commission.

Moreover, further efforts are needed to significantly reduce the occurrence of corruption in Poland, all the more so as new types of corruption have recently been identified by the authorities in areas such as sport and the private sector, where only a few cases have been investigated so far.

Concerning transparency of party funding (theme II), the existing legal and institutional framework is well-developed and largely in line with the provisions of Recommendation Rec(2003)4 of the Committee of Ministers of the Council of Europe on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns. However, it appears that the system of political financing suffers from a lack of substantial and pro-active monitoring to go beyond the formal examination of submitted information.

The National Electoral Commission clearly requires more powers and resources in order to detect illegal practice and bypassing of transparency rules. Furthermore, current legislation needs to be upgraded in some areas in order to increase the level of disclosure obligations and to align the law on the election of the President of the Republic with the standards set by the other existing election laws.

The report as a whole addresses 13 recommendations to Poland. GRECO will assess the implementation of these recommendations in the second half of 2010, through its specific compliance procedure."

Extract of: Third Evaluation Round: Compliance Report on Poland "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 49th Plenary Meeting [Strasbourg, 29 November – 3 December 2010, GRECORC-III(2010)7E]:

"Conclusions

63. In view of the above, GRECO concludes that Poland has implemented satisfactorily or dealt with in a satisfactory manner three of the thirteen recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendation ii has been implemented satisfactorily, recommendation iv and v have been dealt with in a satisfactory manner and recommendations i and iii have not been implemented. With respect to Theme II – Transparency of Party Funding, recommendations i, ii, iii, v, vi and viii have been partly implemented and recommendations iv and vii have not been implemented.

64. As regards incriminations, Poland has finalised the legislative process – already started at the

time of the on-site visit – aimed at amending the Penal Code provisions on bribery in the private sector. The issue of jurisdiction over offences of bribery and trading in influence committed abroad by Polish public officials and members of domestic public assemblies who are not Polish citizens has been clarified, as well as the conditions for invoking the special defence of effective regret. As regards the other recommendations, GRECO regrets that insufficient consideration has been given to the other improvements recommended in the Evaluation Report.

65. Insofar as transparency of party funding is concerned, the information provided by the Polish authorities clearly indicates that, although some progress has been made to align the relevant provisions of the Statute on the Election of the President of the Republic with the standards set by

the other election laws, the process of implementation of the majority of recommendations is still in its initial stages. Even though the draft Electoral Code would appear, if adopted, to go some way towards meeting a number of GRECO's concerns, it does not address all the issues contained in the pending recommendations. In particular, more determined action needs to be taken to ensure a more pro-active and substantial monitoring.

66. In view of the above, GRECO notes that Poland has been able to demonstrate that reforms with the potential of achieving an acceptable level of compliance with the pending recommendations, within the next 18 months, are underway and urges the authorities to vigorously pursue their efforts to address all recommendations. GRECO therefore concludes that the current low level of compliance with the recommendations is not "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of GRECO's Rules of Procedure. GRECO invites the head of the Polish delegation to submit additional information regarding the implementation of recommendations I and iii regarding Theme I, and recommendations i – viii regarding Theme II by 30 June 2012 at the latest.

67. Finally, GRECO invites the authorities of Poland to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 5 November 1998, ratified on 20 December 2000, entered into force on 1 April 2001

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 16 May 2005, ratified on 8 August 2007, entered into force on 1 May 2008

Poland : Progress report 2008 adopted by MONEYVAL at its 27th Plenary meeting, Strasbourg, 7-11 July 2008 [MONEYVAL(2008)12rev]

Poland : Progress report and written analysis by the Secretariat of Core Recommendations: second 3rd round written progress report submitted to MONEYVAL, 27 September 2010 [MONEYVAL(2010)16 and annexes]

III. PROTECTION OF HUMAN RIGHTS[9]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **June 2007,** following a visit to the country in **December 2006**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **19 January 1993**

Protocol No. 6 (ETS No. 114) ratified on **30 October 2000**

Protocol No. 12 (ETS No. 177) neither signed nor ratified

Protocol No. 13 (ETS No. 187) signed on **3 May 2002**

Protocol No. 14 (CETS No. 194) ratified on **12 October 2006**

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9. Poland is in 32nd position with a score of 8.88 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **107** concerning Poland: 87 judgments finding at least one violation, 15 judgments finding no violation and 5 other judgments.[10]

Out of a total of 139,650 pending cases on 31 December 2010, **6,452** concerned Poland.

Resolutions adopted by the Committee of Ministers in 2010: **2**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 11 May 2011): **1**

No Interim Resolution

Extracts of Resolution 1787 (2011)**: Implementation of judgments of the European Court of Human Rights** (see Doc. 12455, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides. Text adopted by the Assembly on 26 January 2011):

"1. The Parliamentary Assembly considers itself duty-bound to contribute to the supervision of the effective implementation of the judgments of the European Court of Human Rights ("the Court"), on which the authority of the Court primarily depends.

2. Although, according to Article 46 of the European Convention on Human Rights ("the Convention"), it is the Committee of Ministers which supervises the execution of Court judgments, the Assembly and national parliaments must now play a much more proactive role in this respect; if this is not done, the key role of the Convention, its supervisory mechanism and the Council of Europe as a whole, in guaranteeing the effective protection of human rights in Europe is likely to be put in jeopardy.

3. The Assembly has therefore decided to give priority to the examination of major structural problems concerning cases in which extremely worrying delays in implementation have arisen, currently in nine states parties: Bulgaria, Greece, Italy, Moldova, Poland, Romania, the Russian Federation, Turkey and Ukraine. Special in situ visits have been carried out by the rapporteur and Chairperson of its Committee on Legal Affairs and Human Rights to most of these states in order to examine with national decision makers the reasons for dilatory execution and/or non-compliance and to stress the urgent need to find solutions to these problems. […]

5. The Assembly notes with grave concern the continuing existence of major systemic deficiencies which cause large numbers of repetitive findings of violations of the Convention and which seriously undermine the rule of law in the states concerned. These problems relate in particular to: […]

5.4. unlawful detention and excessive length of detention on remand (in Moldova, Poland, the Russian Federation, and Ukraine). […]

7. The Assembly, in particular, urges the following states to give priority to specific problems: […]

7.5. The excessive length of procedures before courts and administrative authorities, as well as that of detention on remand, are key issues that Poland must tackle."

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **11 July 1994**, ratified on **10 October 1994**, entered into force on **1 February 1995**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed on **11 January 1995**, ratified on **24 March 1995**, entered into force on **1 March 2002**

Publication of the last report: **March 2006**

Last country visit: November – December 2009

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **16 May 2005**, ratified on **17 November 2008**, entered into force on **1 March 2009**

10. Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **20 December 2000**, entered into force on **1 April 2001**

Last CM resolution(1st cycle) on the implementation of the Framework Convention adopted in **September 2004** [ResCMN(2004)10]

Last state report (2nd cycle) received in **November 2007** [ACFC/SR/II(2007)006]

Last opinion (2nd cycle) by the Advisory Committee adopted in **March 2009** [ACFC/OP/II(2009)002]

Next state report (3rd cycle) expected for **April 2012**

Press release of 16 December 2009:

“Protection of national minorities: Council of Europe publishes report on Poland

The Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) today published their second Opinion on Poland, together with the Government’s comments. The main conclusions are:

The adoption of the Law on National and Ethnic Minorities and on Regional Language and the creation of a governmental structure for combating discrimination have been positive steps for the protection of national minorities. The law recognises nine national minorities (Armenians, Belarusians, Czechs, Germans, Jews, Lithuanians, Russians, Slovaks and Ukrainians) and four ethnic minorities (Karaim, Lemko, Roma and Tatars) living in Poland, to which all its provisions apply.

There is a climate of tolerance in relations between national minorities and the majority of the population. The Advisory Committee is concerned, however, about the increase in the number of racially-motivated offences in recent years. In its view, the Polish authorities have not taken adequate measures to combat racist incidents related to sporting events.

The new law has increased the linguistic rights of persons belonging to national minorities, by providing that minority languages may be used as a “supporting language” in the administration and for names of towns where the number of residents belonging to a national minority is over 20%. However the number of municipalities that have actually implemented these measures remains low.

The educational subsidy for each pupil belonging to a national minority has been substantially increased. Roma pupils benefit from Roma educational assistants and special scholarships. A positive development is that almost all separate Roma classes have been abolished and Roma pupils have integrated into ordinary schools. The Committee points out, nonetheless that further steps are needed to address the difficulties that many Roma still face in housing, education, employment and healthcare.

National minorities actively participate in social, political and economic life. A significant number of representatives of national minorities have been elected to local councils. The Joint Commission of Government and National and Ethnic Minorities has wide consultative functions. However the Committee is concerned that, although parties of national minorities are exempted from the 5% threshold for allocation of seats in parliamentary elections, this has not led in practice to an adequate political representation of minorities.

The Committee also expresses its concern about insufficient representation of national minorities in the public radio and television programming councils, despite the existence of a legislative provision to that effect. It stresses that media broadcasting in minority languages give an inadequate coverage to the regions where the national minorities live.

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Recognised national minorities represent, according to the official figures, 0,7% of the Polish population. Languages other than Polish (including the Kashubian language and Silesian dialects) are mother tongues to between 2,6% and 3,5% of the population. The Framework Convention for the Protection of National Minorities includes a monitoring system whereby the Committee of Ministers, assisted by an Advisory Committee, evaluates its implementation.“

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **12 May 2003**, ratified on **12 February 2009**, entered into force on **1 June 2009**

Last periodic state report (1st cycle) submitted in **September 2010** [MIN-LANG/PR (2010)9]

No assessment report of the Committee of Experts to date

No recommendation of the CM to date

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the fourth report on Poland was adopted in April 2010 and made public in **June 2010**.

Press release of 15 June 2010:

"Council of Europe's Anti-Racism Commission publishes new report on Poland

The European Commission against Racism and Intolerance (ECRI) today published its fourth report on Poland. ECRI's Chair, Nils Muiznieks, said that whilst there has been progress in certain areas, the prevalence of racist and antisemitic discourse, the lack of comprehensive anti-discrimination legislation and the vulnerable situation of the Roma remain sources of concern.

As regards positive developments, the Government's Plenipotentiary for Equal Treatment has taken interesting initiatives to combat racism and related forms of discrimination. Specially tasked prosecutors have been appointed to deal with racist offences. Judges and the police receive appropriate training in this connection and victim support-centres have been set up in the voivodeships.

The Programme for the Benefit of the Roma Community in Poland is an important development to address its housing, health care and employment needs. Roma associations are involved in its development and implementation. Important measures have been taken to counter discrimination on ethnic and nationality grounds in the field of education; these include the recruitment of teaching assistants for certain vulnerable groups and the phasing out of separate classes for the Roma.

However, it is disturbing that discriminatory attitudes persist in Poland. Antisemitism is partially tolerated of the political world and influential media. Racism among football fans, involving serious insults to Black players and crude references to the Holocaust, is a major problem which must be tackled by the authorities as well as by the Polish Football Association and football clubs. Some extreme right-wing organisations continue their activities unchallenged. There is an obvious need to curtail hate speech in publications and on the Internet. The courts have an important contribution to make in this respect and confidence should be built in the National Broadcasting Council's ability to deal with complaints about ethical standards.

There is no comprehensive anti-discrimination legislation, no independent specialised body to combat racism and discrimination on grounds of "race", colour, language, religion, nationality or national or ethnic origin and no independent police complaints mechanism.

Educational attainment among Roma children remains low and they are more likely than others to drop out of school. The living conditions in many Roma communities are still inadequate, as the implementation of the Programme for the Benefit of the Roma Community is hampered by a number of mayors.

In its report, ECRI has made a number of recommendations, three of which require priority implementation and will be revisited by ECRI in two years' time:

– Present to Parliament comprehensive legislation against discrimination

– Ensure that an independent organ is entrusted with the powers that a specialised body for combating racism and racial discrimination should have according to ECRI's General Policy Recommendations No 2 and 7

– Encourage the Polish Football Association to develop a code of conduct to address fans' racism"

H. SOCIAL RIGHTS

European Social Charter of 1961 (ETS No. 35) signed on 26 November 1991, ratified on 25 June 1997, entered into force on 25 July 1997

European Social Charter (revised) (ETS No. 163) signed on 25 October 2005 but not ratified

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified

Extract of the website of the European Social Charter (situation as of February 2011):

“Reports*

Between 1999 and 2011, Poland submitted 10 reports on the application of the Charter.

The 9th report on the provisions accepted by Poland relating to Thematic Group 3 “Labour rights” (Articles 2§§1, 3, 4 and 5, 4§§ 2, 3, 4 and 5, 5 and 6§§1, 2, 3 of the Charter) was submitted on 13 November 2009. Conclusions with respect to these provisions were published in December 2010.

The 10th report, submitted on 1 February 2011, concerns the accepted provisions relating to Thematic Group 4 “Children, families and migrants” i.e.:

– the right of children and young persons to protection (Article 7§§2, 4, 6, 7, 8, 9 and 10),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19).

———

* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once very four years.

Situation of Poland with respect to the application of the Charter

Examples of progress achieved in the implementation of social rights under the Social Charter[11]

Thematic Group 1 “Employment, training and equal opportunities”

► With Poland’s accession to the European Union, there is no longer a nationality requirement for access to the professions of sworn translator or to paramedics.

► The 2004 legislation on employment promotion and labour market institutions makes everyone eligible for vocational guidance, irrespective of nationality. Nationals of other states party to the European Social Charter are therefore entitled to equal treatment.

► The Act of 8 December 2000 amending the 1990 Higher Education Act lays down procedures by which foreign nationals can follow a course offered by a Polish higher education establishment. Nationals of other states party to the Social Charter may undertake and continue studies at higher education establishments in Poland in accordance with international agreements and their provisions, including the European Social Charter.

► Since the amendment to the Road Traffic Act of 20 April 2004, it has no longer been necessary to have Polish nationality to be a driving test examiner

► Under the Act adopted on 24 August 2007 foreign nationals wishing to practise medicine in Poland must still obtain authorisation from the Chamber of Physicians, but authorisation must now be granted if the person concerned meets certain conditions, none of which depend on the applicant’s nationality.

Thematic Group 2 “Health, social security and social protection”

► The Act of 23 January 2003 is expected to remedy previous shortcomings concerning waiting time for some medical treatment, as well as mismanagement of waiting lists.

11. The European Committee on Social Rights rules on the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. It adopts conclusions in the framework of the reporting procedure and decisions under the collective complaints procedure (Article 2 of the Rules of the Committee)

►The National Labour Inspection Act of 13 April 2007 came into force on 1 July 2007. The act amended articles 304 and 3041 of the Labour Code to extend the health and safety at work requirements applicable to self-employed persons. Employers who assign work to self-employed persons that has to be performed in an undertaking or any other specified location must ensure that the working conditions are healthy and safe, in accordance with Article 207 § 2 of the Labour Code. This article requires employers to protect the life and health of persons working there by supplying machinery, equipment and products that reflect scientific and technical progress.

► In 2008 the unemployment benefit was increased

Thematic Group 3 “Labour rights”

► A new Act on civil service was enacted in 2008 in replacement of the 1998 Act and the former ban on officials performing trade union functions has been lifted, with the exception of certain civil servants considered as senior and exercising public powers, who are listed in the 2008 Act. However, this list contains a number of civil servants for whom this restriction does not appear justified.

Thematic Group 4 “Children, families, migrants”

► The Act of 1 July 2001 expressly guarantees the right to family reunion of the migrant workers’ family members.

► Article 2 of the Act of 10 June 2010 amending the act on the countering domestic violence and certain other acts introduced a new article to the Polish Family and Guardianship Code (Article 961) which prohibits corporal punishment in childrearing (no sanctions are provided either in civil or penal law, unless the punishment may be qualified as violence): “*Persons exercising parental authority, guardianship or care over a minor are forbidden to use corporal punishment*”. The new law entered into force on 1 August 2010.

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

► Article 1§2 – Right to work -Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

Discrimination of nationals of the other States Parties of the Charter wishing to practice medicine in Poland, as they require the discretionary authorisation of the National Chamber of Physicians.

(Conclusions XIX-1)

► Article 1§3 – Right to work – Free placement services

Public employment services are not efficient. (Conclusions XIX-1)

► Article 1§4 – Right to work – Vocational guidance, training and rehabilitation

– access to continuing training for nationals of other States Parties is subject to an excessive length of residence requirement;

– it has not been established that mainstreaming of persons with disabilities is effectively guaranteed in the field of education and training.

(Conclusions XIX-1)

► Article 15§1 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Education and training for persons with disabilities

It has not been established that mainstreaming of persons with disabilities is effectively guaranteed in education and training. (Conclusions XIX-1)

► Article 15§2 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Employment for persons with disabilities

Anti-discrimination legislation in the field of employment does not make reasonable accommodation of the workplace a requirement. (Conclusions XIX-1)

Thematic Group 2 “Health, social security and social protection”

► Article 12§1 – Right to social security – Existence of a social security system

The level of the basic unemployment benefit is inadequate. (Conclusions XIX-2)

► Article 12§4 – Right to social security – Social security of persons moving between states

States Parties not covered by Community regulations or bound by agreements with Poland are not provided with the possibility of accumulating periods of insurance or employment completed in other countries. (Conclusions XIX-2)

► Article 13§3 – Right to social and medical assistance – Prevention, abolition or alleviation of need

Access to social services by nationals of other Contracting parties of the Charter is subject to an excessively long length of residence requirement. (Conclusions XIX-2)

► Article 14§1 – Right to benefit from social services – Promotion or provision of social welfare services

Access to social services by nationals of other States Parties is subject to an excessive length of residence requirement. (Conclusions XIX-2)

Thematic Group 3 “Labour rights”

► Article 2§1 – Right to just conditions of work – Reasonable working time

Regulations permit daily working time of more than 16 hours in various occupations. (Conclusions XIX-3 (2010))

► Article 4§2 – Right to a fair remuneration – Increased remuneration for overtime work

Time off granted to compensate overtime is not sufficiently long. (Conclusions XIX-3 (2010))

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment

A two-week notice period granted to workers who's working relationships are terminated before the end of the fixed-term contracts is not long enough. (Conclusions XIX-3 (2010))

► Article 4§5– Right to a fair remuneration –Limits to deduction from wages

The wages of workers with the lowest wages, after deductions, do not ensure means of subsistence for themselves and their dependants. (Conclusions XIX-3 (2010))

►Article 5 – Right to organise

– some categories of civil servants (deputies to the voïvodeship veterinary offices, to the Office for Registration of Medicinal Products, Medical Devices and Biocidal Products, and the Office for Forest Seed Production) cannot perform trade union functions;

– part of the staff of the Internal Security Agency do not enjoy the right to organise;

– home workers do not enjoy the right to form trade unions. (Conclusions XIX-3 (2010))

Thematic Group 4 “Children, families, migrants”

► Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers

Young persons between the ages of 15 and 18 are not adequately protected against all forms of sexual exploitation, in particular child pornography. (Conclusions XVII-2)

► Article 8§2 – Right of employed women to protection – Illegality of dismissal during maternity leave

In certain circumstances an employer can alter the terms and conditions of the employee during the protected period and if the woman rejects this the employment contract can be terminated. (Conclusions XVII-2)

► Article 16 – Right of the family to social, legal and economic protection

An excessive length residence requirement is imposed on certain nationals of other States party to the Charter or the Revised Charter for receipt of family benefits. (Conclusions XVIII-1)

► Article 17 – Right of mothers and children to social and economic protection

1. Corporal punishment of children in the home is not prohibited ;

2. The maximum length of detention on remand (two years) is excessive;

3. Children may be detained for "moral depravity". (Conclusions XVII-2)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Polish Government to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

(Report to be submitted before 31 October 2011)

► Article 1§1 – Conclusions XIX-1

Thematic Group 2 "Health, social security and social protection"

(Report to be submitted before 31 October 2012)

► Article 11§1 – Conclusions XIX-2

► Article 12§§2 and 3 – Conclusions XIX-2

Thematic Group 3 "Labour rights"

(Report to be submitted before 31 October 2013)

Thematic Group 4 "Children, families, migrants"

(Report to be submitted before 31 October 2010, Conclusions to be published by the end of 2011)

► Article 8§4 – Conclusions XVIII-1

► Article 19§§6, 8 and 10 – Conclusions XVIII-1"

I. Parliamentary Assembly

Cf. above "III. PROTECTION OF HUMAN RIGHTS, B. EUROPEAN CONVENTION ON HUMAN RIGHTS"

11 May 2011

4. PORTUGAL

Council of Europe member state since **22 September 1976**

Number of Council of Europe Conventions ratified (as of 11 May 2011): **109** (out of 210)

Number of Council of Europe Conventions signed (as of 11 May 2011): **41**

I. PLURALISTIC DEMOCRACY[12]

A. Free and fair elections

System of government: parliamentary democracy

Last presidential elections: **2011**

Next presidential elections: **2016**

Last general elections: **2009**

Next general elections: **2011**

B. Local and regional democracy

12. The non-governmental organisation Freedom House gives to Portugal a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

European Charter on Local Self-Government (ETS No. 122) signed on 15 October 1985, ratified on 18 December 1990, entered into force on 1 April 1991

Extract of the last **Congress of Local and Regional Authorities** monitoring report on local democracy in Portugal [CPL(18)4, February 2010]:

"Summary

This report follows a fact-finding visit made in 2008 on the basis of a complaint which the Congress received from the National Association of Municipalities of Portugal (ANMP), relating to the new Law on Local Finance (Law No. 2/2007). The aim of the report is therefore to determine whether this law is in conformity with the European Charter of Local Self-Government. In this respect, it concludes that the situation in respect of local finances in Portugal has generally improved since the previous monitoring report. This report also contains some information about parishes (freguesias) and some considerations about the legitimacy of the presence of parish representatives as members of the Portuguese delegation to the Congress."

II. RULE OF LAW

A. VENICE COMMISSION

No opinion concerning Portugal

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Portugal was …euros(data not supplied);

– the **number of professional judges** in 2008 in Portugal was **1,906,** this means 18.0 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Portugal was **1,341**, this means 12.6 for 100 000 inhabitants.

C. The fight against corruption and organised crime[13]

Civil Law Convention on Corruption (ETS No. 174)neithersigned nor ratified

Criminal Law Convention on Corruption (ETS No. 173) signed on 30 April 1999, ratified on 7 May 2002, entered into force on 1 September 2002, Additional Protocol (ETS No. 191) signed on 15 May 2003 but not ratified

Extract of: **Second Evaluation Round: Compliance Report on Portugal** adopted by GRECO at its 39th Plenary Meeting [Strasbourg, 6-10 October 2008, GrecoRC-II(2008)2E]:

"Conclusions

68. In view of the above, GRECO concludes that Portugal has implemented satisfactorily or dealt with in a satisfactory manner just over half of the recommendations in the Second Round Evaluation Report. Recommendations vii and x have been implemented satisfactorily. Recommendations i, iv, v and ix have been dealt with in a satisfactory manner. Recommendations ii, iii, vi and viii have been partly implemented.

69. Significant progress has been achieved in such areas as the use of asset investigations with a view to implementing temporary and confiscation measures, corporate criminal liability, whistleblower protection and training of tax inspectors on uncovering corruption. GRECO also notes progress in the implementation of the other recommendations in the Second Round Evaluation Report. It hopes that the Portuguese authorities will do all that is necessary to bring the various initiatives already under way or announced to a successful conclusion.

13. Portugal is in 32nd position with a score of 6.0 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

70. GRECO invites the head of the Portuguese delegation to supply additional information on the implementation of recommendations ii, iii, vi and viii by 30 April 2010.

71. Finally, GRECO invites the Portuguese authorities to authorise publication of this report as soon as possible, translate it into the national language and make this translation public."

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Portugal** adopted by GRECO at its 48th Plenary Meeting [Strasbourg, 27 September – 1 October 2010, GrecoRC-II(2008)2Eaddendum]:

"Conclusion

30. In addition to the conclusions contained in the Second Round Compliance Report on Portugal

and in view of the above, GRECO concludes that recommendations iii and viii have been dealt with in a satisfactory manner. Recommendations ii and vi remain partly implemented.

31. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 10 recommendations issued to Portugal, in total 8 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. GRECO expects that further positive developments will be signalled in the near future, in particular in respect of the establishment of codes of conduct and training in public administration as a means to prevent risks of corruption. GRECO also stresses the need for further staff training concerning the application of confiscation and seizure of proceeds from corruption.

32. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Portugal. The Portuguese authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendations ii and vi.

33. Finally, GRECO invites the Portuguese authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

Press release of 8 December 2010:

"Group of States against Corruption publishes report on Portugal

The Council of Europe's Group of States against Corruption (GRECO) today published its Third Round Evaluation Report on Portugal, according to which although criminal legislation in respect of domestic bribery complies with Council of Europe standards, it needs to be amended to better cover such offences in the international context. GRECO also calls for more transparency in relation to political financing, in particular if the system is to allow more private based funding in the future.

Following the adoption of new legislation regarding the criminalisation of corruption (theme I), Portugal covers all forms of domestic corruption offences contained in the Council of Europe Criminal Law Convention on Corruption and the Additional Protocol.

However, not all the corruption offences in the international context are covered, which is a major shortcoming. Sanctions for bribery concerning public officials have recently been aligned with European standards, but the sanctions for private sector bribery and trading in influence are weak and need to be revised. GRECO notes that only limited practice is available in applying bribery legislation and calls for training of the professionals involved.

Concerning transparency of party funding (theme II), GRECO acknowledges that Portugal, currently, has a relatively developed system in place, including detailed rules establishing the basis for and limits of private financing of political parties and election campaigns.

The monitoring of political financing, which is carried out by the Entity for Accounts and Political Financing and the Constitutional Court, appears rather cumbersome and its results are made available to the public at a very late stage. Allowing more private funding into the system, which is currently under debate in Portugal, would need to be connected to appropriate rules on transparency and monitoring.

In the report GRECO addresses 13 recommendations to Portugal. The implementation of these will be assessed by GRECO in the second half of 2012, through its specific compliance procedure"

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 8 November 1990, ratified on 19 October 1998, entered into force on 1 February 1999

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 16 May 2005, ratified on 22 April 2010, entered into force on 1 August 2010

Portugal is not a member of MONEYVAL.

III. PROTECTION OF HUMAN RIGHTS[14]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **December 2003,** following a visit to the country in **May 2003**

Press release of 15 March 2010:

"Commissioner Hammarberg continues dialogue on human rights with Portuguese authorities

The Commissioner published today a letter sent to the Deputy Minister of Justice of Portugal, José Magalhães, on the fight against discrimination, migration policy, the situation of minorities and police behaviour.

The letter follows the Commissioner's visit to Lisbon on 12-13 November 2009 during which he held discussions with the Deputy Minister of Justice, the Secretary of State of European Affairs and the High Commissioner for Immigration and Intercultural Dialogue, as well as with NGOs and the Portuguese Bar Association. He also visited the only asylum seekers and refugees reception centre in Portugal and met with migrant communities in the Vale da Amoreira neighbourhood.

While welcoming the broad anti-discrimination protection under the Portuguese Constitution and legislation, the Commissioner expresses concerns about substandard housing conditions of Roma communities and reported widespread discrimination they face. Having noted positive integration measures, the Commissioner urges the authorities to act in order to improve the housing situation of Roma, in accordance with the principles enshrined notably in the European Social Charter.

The Commissioner commends the Portuguese authorities for having established adequate services for immigrants. At the same time he expresses his concern at the effectiveness of the racial discrimination complaint procedure before the Commission for Equality and Against Racial Discrimination of the High Commissioner for Immigration and Interethnic Dialogue.

Commissioner Hammarberg is also concerned at the lack of a uniform and expeditious procedure for changing the name and sex of transgender persons on birth certificates and identity documents. He invites the authorities to find appropriate solutions drawing inspiration from his Issue Paper on "Human rights and gender identity" published in July 2009.

Finally, Commissioner Hammarberg recommends ratification by Portugal of Protocol N° 12 to the European Convention on Human Rights."

Reply by Mr José Magalhães, Secretary of State for Justice and modernization of the Judiciary of Portugal, to the letter from the Council of Europe Commissioner for Human Rights (29 March 2010) [CommDH(2010)19]

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **9 November 1978**

Protocol No. 6 (ETS No. 114) ratified on **2 October 1986**

Protocol No. 12 (ETS No. 177) signed **4 November 2000**

Protocol No. 13 (ETS No. 187) ratified on **3 October 2003**

Protocol No. 14 (CETS No. 194) ratified on **19 May 2006**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **19** concerning Portugal: 15 judgments finding at least one violation, 2 judgments finding no violation and 2 other judgments.[15]

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14. Portugal is in 40th position with a score of 12.36 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

15. Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction

Out of a total of 139,650 pending cases on 31 December 2010, **271** concerned Portugal.

Resolutions adopted by the Committee of Ministers in 2010: **6**

1 Interim Resolution

Press release of 12 March 2010 :

“Council of Europe: measures to end excessive length of proceedings in Portugal

The Committee of Ministers of the Council of Europe has adopted an Interim Resolution taking stock of the progress achieved by Portugal with a view to solving the structural problem of excessive length of proceedings and setting up effective remedies. The Resolution furthermore identifies outstanding issues and invites the authorities to pursue their efforts in this respect (Oliveira Modesto and 24 other cases against Portugal).

As regards the excessive length of proceedings, the Committee of Ministers noted the numerous reforms already adopted, including the modernization of the judicial system permitting the digital treatment of cases and management of files, the reorganisation of different kinds of proceedings before administrative courts and the increase of the number of arbitration centers as an alternative dispute resolution tool. It also noted with interest the impact of certain reforms on the reduction of both the backlog and the length of proceedings, in particular before civil, criminal and administrative higher courts and it encouraged Portugal to continue its efforts in this respect.

Noting, however, the existing backlog of civil proceedings, the Committee urged the authorities to envisage the adoption of ad hoc measures to reduce this backlog.

The Committee also invited the authorities to provide further information, including additional comparative statistical data, so that the practical impact of all the reforms can be assessed.

As to the effectiveness of domestic remedies for complaints of this type, the Committee of Ministers noted with interest the new law adopted, regulating the state’s extra contractual responsibility in case of a violation of the right to a judicial decision within a reasonable time. It noted however that there were discrepancies in the case law as regards the right to non pecuniary damages. It therefore encouraged Portugal to pursue the efforts to introduce a remedy to harmonise the case law as soon as possible.

The follow up given by Portugal to this resolution will be assessed by the Committee at the end of 2010 at the latest as regards effective remedies, and mid-2011 at the latest as regards the excessive length of judicial proceedings.”

Resolutions adopted by the Committee of Ministers in 2011 (as of 11 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **26 November 1987**, ratified on **29 March 1990**, entered into force on **1 July 1990**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152) signed on **3 June 1994**, ratified respectively on **20 March 1998** and **3 February 2000**, entered into force on **1 March 2002**

Last country visit: **January 2008**

Publication of the last report: **March 2009**

Press release of 19 March 2009:

“At the request of the Portuguese authorities, the Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) has published today the report on its fifth periodic visit to Portugal, carried out in January 2008, together with the response of the Portuguese Government.

During the 2008 visit, the CPT reviewed the measures taken by the Portuguese authorities to implement the recommendations made by the Committee after previous visits. In this connection, particular attention was paid to the treatment of persons deprived of their liberty by the police. The CPT also examined in detail various issues concerning prisons, including the treatment of high security prisoners and drug-related matters. In addition, the Committee’s delegation visited two psychiatric hospitals, where it focused on the living conditions as well as the legal safeguards afforded to patients in the context of the involuntary admission procedure and of consent to treatment.

In their response to the visit report, the Portuguese authorities provide information on the measures being taken to implement the CPT's recommendations."

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **16 May 2005**, ratified on **27 February 2008**, entered into force on **1 June 2008**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **7 May 2002**, entered into force on **1 September 2002**

Last CM resolution(1st cycle) on the implementation of the Framework Convention adopted in **September 2007** [CM/ResCMN(2007)12]

Last state report (2nd cycle) received in **January 2009** [ACFC/SR/II(2009)001]

Last opinion (2nd cycle) by the Advisory Committee adopted in **November 2009** [ACFC/OP/II(2009)003]

Next state report (3rd cycle) expected for **September 2013**

Press release of 30 April 2010:

"Portugal: publication of the second cycle opinion

The 2nd Opinion of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM) on Portugal has been made public at the same time as the government comments. The Advisory Committee adopted this Opinion in November 2009.

Summary of the Opinion:

"Since the adoption of the first Opinion of the Advisory Committee in October 2006, the Portuguese authorities have taken further measures to implement the existing anti-discrimination legislation. However, the effectiveness of remedies against discrimination is hampered by the complexity of the system.

The authorities have also continued to develop and implement programmes aimed at promoting tolerance, intercultural dialogue and at fighting discrimination and racially-motivated hatred, notably through the work of the Office of the High Commissioner for Immigration and Intercultural Dialogue.

However, it is regrettable that no visit of the Advisory Committee to Portugal could be organised. Such a visit would have enabled the Advisory Committee to obtain further and more detailed information on the implementation of the Framework Convention in Portugal.

Despite some positive projects at the local level, many persons belonging to the Roma minority continue to be confronted with discrimination in various areas of daily life and to face, in some instances, hostile societal attitudes. Their situation in the field of housing is of particular concern as many Roma live in segregated areas, sometimes in substandard conditions. The situation of those Roma who are compelled to move from place to place is a source of deep concern.

Roma also face difficulties in the education system and instances of placement of Roma pupils in separate classes, including in some cases in temporary prefabricated classrooms, have been reported. This is also a source of deep concern. In general, notwithstanding the efforts made in recent years, further steps should be taken to promote and expand intercultural education at school.

Resolute measures should be taken to enhance consultation and co-operation between the authorities and Roma representatives and improve participation of the latter in decision-making, in particular on issues of concern to them.

The authorities should publicise and disseminate information about the Framework Convention for the Protection of National Minorities and the results of the monitoring process."

The comments have been received and will be available in due course."

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) neither signed nor ratified

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the third report on Portugal was adopted in June 2006 and made public in **February 2007**.

H. SOCIAL RIGHTS

European Social Charter of 1961 (ETS No. 35) signed on 1 June 1982, ratified on 30 September 1991, entered into force on 30 October 1991

European Social Charter (revised) (ETS No. 163) signed on 3 May 1996, ratified on 30 May 2002, entered into force on 1 July 2002

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) signed on 9 November 1995, ratified on 20 March 1998, entered into force on 1 July 1998

Extract of the website of the European Social Charter (situation as of March 2011):

“Reports *

Between 1993 and 2011, Portugal submitted 9 reports on the application of the Charter and 6 on the application of the Revised Charter.

The 5th report, submitted on 2 March 2010, concerns the accepted provisions of the Revised Charter relating to Thematic Group 3 “Labour rights” (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter). Conclusions in respect of these provisions were published in December 2010.

The 6th report, submitted on 23 March 2011, concerns the accepted provisions of the Revised Charter relating to Thematic Group 4 “Children, families, migrants” i.e.:

– the right of children and young persons to protection (Article 7),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19),

– the right of workers with family responsibilities to equal opportunity and treatment (Article 27),

– the right to housing (Article 31).

It was due by 31 October 2010.

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Situation of Portugal with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the European Social Charter[16]

Health/Education

► Prohibition of the employment of minors subject to compulsory education (Constitutional Act No. 1/97); the minimum age for employment has been fixed as 16 and light work has been defined (Act No. 58/99); illegal employment of young persons is regarded as a very serious offence and sanctions have been stepped up (Acts Nos. 113, 114, 116 and 118/1999)

16. "1. The [European Committee of Social Rights] rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure" (Article 2 of the Rules of the Committee).

► General prohibition of night work between 8 p.m. and 7 a.m. for young persons under 16 years of age and between 11 p.m. and 7 a.m. for young persons over 16 years of age has been introduced (Act No 58/99).

► Six weeks' post-natal leave has been made compulsory (Act No. 142/99) and maternity leave has been increased from 98 to 120 days (Act No. 18/98).

► The right to time off for nursing mothers has been extended to cover the whole period of nursing, including in the case of part-time work (Act No. 142/99).

Employment

► 1. Act No. 105/97 on equality between women and men;

► 2. Act No. 134/99, as implemented by Legislative Order No. 111/2000 prohibits any distinction, exclusion, restriction or preference based on race, colour, ancestry or national or ethnic origin in the exercise of economic, social or cultural rights.

► Decree No. 132/99 contains the principles on the organisation and functioning of employment services

► Act No. 73/98 regulates working time.

► Act No. 45/98 removed age as a criterion for determining the level of the statutory minimum wage.

► Legislative Decree No. 84/99 guarantees the right to organise for all public employees.

► The Government has stopped defining by decree the minimum services to be guaranteed in the event of a strike where the parties are unable to reach agreement (decision of the Constitutional Court declaring that certain provisions of the Act on the right to strike were unconstitutional).

► Act No. 14/2002 of 19 February 2002 concerning the exercise of the freedom of association and collective bargaining and participation rights of staff members of the Public Security Police.

Movement of persons

► Simplification of the formalities for issuing work permits (Act No. 20/98).

► Abolition of the quota of foreign nationals allowed to work in undertakings with more than five employees (Act No. 20/98).

► Act No. 134/99 repealed Decree No. 55/1977 which gave nationals alone the right to apply for subsidised housing.

► The scope of the provisions relating to family reunion has been extended (Decree-Law of 8 August 1998).

► Act No. 30-E/2000 provides equal treatment for nationals of the Parties with respect to legal aid.

Social Protection

► Executive Law No. 232/2005 has created the Solidarity Supplement for the Elderly (CSI), a monetary benefit designed to combat poverty among the elderly.

► Under the PARES project, expansion of the network of social facilities by creating 19 000 new places in nursing homes and day centres by 2009.

► Under Act No. 32/2002, specific emergency assistance (housing, food and benefits in kind to cover basic needs) is available to all persons who are in a situation of exceptional need.

► Legislative Decree No. 84/2000 has amended the legislation on the guaranteed minimum income.

► 1. Act No. 135/99 introduced a series of protective measures for heterosexual couples having co-habited for two years or more. In 2001, these measures were extended to homosexual couples;

► 2. Act No. 142/99 improved provisions for maternity and paternity leave.

Non-discrimination (disability)

►Adoption of Law 38/2004 on the Prevention, Habilitation, Rehabilitation and Participation of Persons with Disabilities, as well as of Law 46/2006 explicitly prohibiting direct and indirect discrimination on the basis of disability inter alia with respect to education and training.

►Inclusion of measures for the promotion of the insertion in the labour market of persons with disabilities in the national employment plan 2003-2006 (Council of Ministers Resolution 185/2003) and setting the socio-professional integration of persons with Disabilities as an objective in the national action plan (Council of Ministers Resolution 192/2003).

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

► Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

Sections 132 and 133 of the Merchant Navy Penal and Disciplinary Code providing for sanctions against seamen who abandon their post even where the safety of the vessel or the lives or health of persons on board are not at risk remains in force. (Conclusions 2008)

► Article 10§5 – Right to vocational training – Full use of facilities available

It has not been established that the equality of treatment of nationals of other States Parties lawfully resident or regularly working in Portugal is guaranteed as regards financial assistance for training. (Conclusions 2008)

► Article 20 (and Article 4§3) – Right to equal opportunities and treatment in employment and occupation without sex discrimination

It is not possible to make a comparison of jobs outside the company directly concerned in unequal pay claims. (Conclusions 2008)

Thematic Group 2 “Health, social security and social protection”

► Article 3§3 – Right to safe and healthy working conditions – Enforcement of safe and healthy working conditions

The number of fatal accidents is manifestly high. (Conclusions 2009)

► Article 12§1 – Right to social security – Existence of a social security system

The minimum monthly invalidity and old age pensions for persons who contributed less than 15 years, the minimum monthly invalidity and old age pensions for persons contributing to the Special Social Security Scheme for Agricultural Activities as well as the monthly Non-Contributory and Equivalent scheme are manifestly inadequate. (Conclusions 2009)

► Article 13§1 – Right to social and medical assistance – Adequate assistance for anyone in need

It has not been established that the level of social assistance paid to a single person without resources is adequate. (Conclusions 2009)

► Article 23 – The right of the elderly to social protection

The level of minimum old-age pensions – both contributory and non-contributory – was manifestly inadequate for a large part of the elderly population during the reference period. (Conclusions 2009)

Thematic Group 3 “Labour rights”

► Articles 2§4 – Right to just conditions of work – Elimination of risks in dangerous or unhealthy occupations

There is no provision for reduced working hours, additional paid holidays or another form of compensation in dangerous and unhealthy occupations. (Conclusions 2010)

► Article 4§1 – Right to a fair remuneration – Decent remuneration

The minimum wage is manifestly unfair. (Conclusions 2010)

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment

Fifteen days’ notice is insufficient for employees with over six months’ service. (Conclusions 2010)

► Article 6§3 – Right to bargain collectively – Conciliation and arbitration

It has not been established that mediation is voluntary and recourse to compulsory arbitration is only permitted within the limits of Article G of the Revised Charter. (Conclusions 2010)

► Article 6§4 – Right to bargain collectively – Collective action

The right to call a strike is reserved in principle only to trade unions while the forming of the latter is subject to an excessive timeframe. (Conclusions 2010)

Thematic Group 4 “Children, families, migrants”

► Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers

The possession of child pornography is not a criminal offence. (Conclusions 2006)

► Article 8§4 – Right of employed women to protection – Regulation of night work and prohibition of dangerous, unhealthy or arduous types of work

The employment of women in underground mining is not prohibited. (Conclusions XVII-2 (2003))

The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Portuguese Government to provide more information in the next report in respect of the following provisions:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2011)

► Article 10§§4 – Conclusions 2008

► Article 15§§2 and 3 – Conclusions 2008

► Article 18§1 – Conclusions 2008

Thematic Group 2 “Health, social security and social protection”

(Report to be submitted before 31 October 2012)

► Article 3§§1 and 4 – Conclusions 2009

► Article 11§§2 and 3– Conclusions 2009

► Article 13§4 – Conclusions 2009

Thematic Group 3 “Labour rights”

(Report to be submitted before 31 October 2013)

► Article 2§§6 and 7 – Conclusions 2010

► Article 21 – Conclusions 2010

► Article 22 – Conclusions 2010

► Article 26§§1 and 2 – Conclusions 2010

► Article 29 – Conclusions 2010

Thematic Group 4 “Children, families, migrants”

(Report to be submitted before 31 October 2010, Conclusions to be published by the end of 2010)

► Article 7§1 – Conclusions 2006

► Article 19§§11 and 12 – Conclusions 2006

Collective Complaints and State of Procedure in Portugal

Collective complaints (under examination)

European Roma Rights Centre (ERRC) v. Portugal (No. 61/2010)

European Council of Police Trade Unions v. Portugal (No. 60/2010)

Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

– Sindicato dos Magistrados do Ministério Público (SMMP) v. Portugal (No. 43/2007)

No violation of Article 12§3 (the right to social security), decision on the merits of 3 December 2008.

– European Council of Police Trade Unions v. Portugal (No. 40/2007)

No violation of Article 6§§1-2 (the right to bargain collectively) or Article 21 (the right to information and consultation) or Article 22 (the right to take part in the determination and improvement of the working conditions and working environment), decision on the merits of 23 September 2008.

– European Council of Police Trade Unions v. Portugal (No. 37/2006)

No violation of Article 4§§1-2 (right to adequate remuneration and right to increased rate of remuneration for overtime work) or Article 6 §§1-2 (right to collective bargaining: joint consultation and machinery for voluntary negotiations), decision on the merits of 3 December 2007.

– World Organisation against Torture v. Portugal (No. 20/2003)

No violation of Article 17 (right of children to social, economic and legal protection), decision on the merits of 7 December 2004.

– European Council of Police Trade Unions v. Portugal (No. 11/2001)

No violation of Articles 5 and 6 (right to organise and right to collective bargaining), decision on the merits of 21 May 2002.

– European Federation of Employees in Public Services v. Portugal (No. 5/1999)

No violation of Articles 5 and 6 (right to organise and right to collective bargaining), decision on the merits of 4 December 2000.

2. Complaints where the Committee has found a violation which has been remedied

– World Organisation against Torture v. Portugal (No. 34/2006)

Violation of Article 17 (right of children to social, economic and legal protection), decision on the merits of 5 December 2006.

3. Complaints where the Committee has found a violation which has not yet been remedied

– International Commission of Jurists v. Portugal (No. 1/1998)

Violation of Article 7§1 (prohibition of employment under the age of 15), decision on the merits of 9 September 1999."

I. Parliamentary Assembly

No specific recent text concerning Portugal

17 May 2011

5. ROMANIA

Council of Europe member state since **7 October 1993**

Number of Council of Europe Conventions ratified (as of 17 May 2011): **100** (out of 210)

Number of Council of Europe Conventions signed (as of 17 May 2011): **13**

I. PLURALISTIC DEMOCRACY[17]

A. Free and fair elections

17. The non-governmental organisation Freedom House gives to Romania a score of 2 for political rights and of 2 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

System of government: parliamentary democracy

Last presidential elections: **2009**

Next presidential elections: **2014**

Last general elections: **2008**

Next general elections: **2012**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 4 October 1994, ratified on 28 January 1998, entered into force on 1 May 1998

Last **Congress of Local and Regional Authorities** monitoring report: March 2011 [CG(20)9] and **Recommendation 300 (2011)** on local and regional democracy in Romania adopted on 22 March 2011

Press release of 23 March 2011:

"The Congress adopts a monitoring report on local and regional democracy in Romania

In a report and a recommendation on local and regional democracy in Romania adopted by the Congress of Local and Regional Authorities, at its 20th Session on 22 March 2011, the Congress invites the Romanian authorities to pursue their efforts with a view to putting into practice all the principles of the European Charter of Local Self-Government.

Over the last decade Romania initiated many legislative reforms, which were generally implemented in accordance with the principles and the spirit of the Charter. The new Congress report suggests in particular to improve mechanisms for consultation with local authorities, providing local authorities with financial resources commensurate with their powers and responsibilities and granting special status to the capital, Bucharest.

The report, which was presented by Jean-Claude Frecon, France (L, SOC), follows a monitoring visit carried out from 24 to 26 May 2010.

With regard to regional development reforms, the recommendation invites the Romanian authorities to continue reforms in accordance with the principles set out in the Reference Framework for Regional Democracy.

The Congress also recommends considering lifting the reservation to Article 7(2) – which foresees the appropriate financial compensation of elected representatives in the exercise of their office; that they made on ratifying the Charter, which no longer seems to be necessary.

Lastly, the Romanian authorities are encouraged to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in local affairs."

II. RULE OF LAW

A. VENICE COMMISSION

No recent opinion concerning Romania

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Romania was **€ 25,3**;

– the **number of professional judges** in 2008 in Romania was **4,142,** this means 19.2 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Romania was **2,379**, this means 11.1 for 100 000 inhabitants.

C. The fight against corruption and organised crime[18]

Civil Law Convention on Corruption (ETS No. 174) signed on 4 November 1999, ratified on 23 April 2002, entered into force on 1 November 2003

Criminal Law Convention on Corruption (ETS No. 173) signed on 27 January 1999, ratified on 11 July 2002, entered into force on 1 November 2002, Additional Protocol (ETS No. 191) signed on 9 October 2003, ratified on 29 November 2004, entered into force on 1 March 2005

Extract of: **Second Evaluation Round: Compliance Report on Romania** adopted by GRECO at its 35th Plenary Meeting [Strasbourg, 3-7 December 2007, GrecoRC-II(2007)9E]:

"Conclusion

93. In view of the above, GRECO concludes that Romania has implemented satisfactorily or dealt in a satisfactory manner with 40% of the recommendations contained in the Second Round Evaluation Report. Recommendations i, ii, xiii and xiv have been implemented satisfactorily. Recommendations iv and v have been dealt with in a satisfactory manner. Recommendations iii, vii, viii, ix, xi and xii have been partly implemented and recommendations vi, x, and xv have not been implemented.

94. The country has made noticeable efforts as regards the confiscation of proceeds of corruption in a larger number of situations, the introduction of criminal liability of legal persons, improving the public's access to official documents, and strengthening inter-agency exchange of information on legal persons. Only little progress was registered in respect of the majority of recommendations, and no progress at all as regards those dealing with the need to introduce appropriate rules for the hiring and career of public officials in general, to harmonise the rules and principles on the refusal of gifts, to train tax inspectors in the field of detecting possible corruption offences. GRECO urges Romania to vigorously pursue anti-corruption policies clearly aimed at the full implementation of the recommendations.

95. GRECO invites the Head of the Romanian delegation to submit additional information regarding the implementation of recommendations iii, vi to xii and xv by 30 June 2009.

96. Finally, GRECO invites the authorities of Romania to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public."

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Romania** adopted by GRECO at its 45th Plenary Meeting [Strasbourg, 30 November – 4 December 2009, GrecoRC-II(2007)9Eaddendum]:

"Conclusion

59. In addition to the conclusions contained in the Second Round Compliance Report on Romania and in view of the above, GRECO concludes that recommendations iii, ix and xi have been implemented satisfactorily and that recommendations vii and xv have been dealt with in a satisfactory manner. Recommendations vi, viii, x and xii remain only partly implemented.

60. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 15 recommendations issued to Romania, in total 11 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. Most of the remaining recommendations concern public administration and the statutory rules applicable to public officials. Therefore, GRECO urges the Romanian authorities to pursue their efforts in this area in particular so that further positive developments can be signalled in the near future. Romania should pursue its efforts to address in particular the phenomenon of companies without real economic activity, since these can be misused for various criminal purposes, including dissimulating payments and proceeds of corruption.

61. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Romania. The Romanian authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendations vi, viii, x and xii.

62. Finally, GRECO invites the Romanian authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

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18. Romania is in 69th position with a score of 3.7 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

Press release of 15 March 2011:

“Group of States against Corruption publishes report on Romania

The Council of Europe’s Group of States against Corruption (GRECO) published today its Third Round Evaluation Report on Romania, in which it stresses the need to achieve improvements in the area of party financing and the legal framework for corruption offences.

The report focuses on two distinct themes: criminalisation of corruption and transparency of party funding. Regarding the criminalisation of corruption [Theme I], Romania has ratified the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). The combination of the provisions contained in the Criminal Code and Law no. 78/2000 on preventing, discovering and sanctioning of corruption acts results in a comprehensive legal framework on corruption and the new Criminal Code (entry into force expected in October 2011) will improve it further. However, some gaps will need to be filled, in particular to cover bribery of public officials and trading in influence whether or not the act of the official is within the scope of his/her formal competence. Moreover, the existing arrangements concerning effective regret are a particular source of concern given the limited safeguards in place to prevent their abuse by bribe-givers.

The current political context would not make it possible to adopt again a piece of legislation as powerful as Law 78/2000. Anti-corruption bodies are currently struggling to preserve their legal powers and ability to deal with cases involving the political and economical elite.

As for party financing [Theme II], Law no. 334/2006 on financing the activity of political parties and election campaigns, republished in 2010 is a fine piece of legislation which provides for a variety of measures aimed at increasing the overall transparency of political life. It is at times over-ambitious and imposes many limitations that are probably difficult to enforce in practice. Accounting, reporting and disclosure measures are in place but some important loopholes hamper the effectiveness of these measures. For instance, all donations up to € 420 fall outside the scope of the regulations; in-kind donations, loans and movements of assets within political parties need to be more clearly regulated.

Supervision of party and campaign financing is under the joint responsibility of the Permanent Electoral Authority (PEA) and the Court of Accounts. However, these arrangements and the way responsibilities are distributed are not satisfactory. The report stresses that the PEA should take the lead responsibility in this area and be given corresponding means. Also, the maximum penalties for infringements of the rules are not adequate.

It is important that improvements are rapidly implemented since political financing in Romania has been surrounded by numerous allegations of dubious practices.

GRECO addresses 20 recommendations to Romania. In the second half of 2012, it will assess the implementation of these recommendations through its specific compliance procedure.”

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 18 March 1997, ratified on 6 August 2002, entered into force on 1 December 2002

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 16 May 2005, ratified on 21 February 2007, entered into force on 1 May 2008

Press release of 17 October 2008:

“MONEYVAL Publishes its 3rd Round Evaluation Report on Romania

The Council of Europe’s MONEYVAL Committee (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and Financing of Terrorism) has published today the Third Round Evaluation report on Romania. This report analyses the implementation of international and European standards to combat money laundering and terrorist financing, assesses levels of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations and includes a recommended action plan to improve the Romanian Anti Money Laundering and Counter Terrorist Financing (AML/CFT) system.

The main findings of the evaluation report are:

· Since the second evaluation in April 2002 the Romanian authorities have moved to a full “all crimes” approach for predicate offences. The “tipping off” offence has been criminalised and corporate liability has been introduced. Confiscation of proceeds are applied in cases of money laundering and terrorist financing and if the proceeds are not found, their equivalent value shall be confiscated.

· The AML/CFT legislation (No. 656/2002) is in place and appears to be sound and largely in line with the international requirements under the new Methodology. The reporting obligation, however, seems not to cover the full width of Recommendation 13. There have been final convictions in five money laundering cases and tax evasion is still the most common predicate offence. The evaluation team was none-the-less concerned that the time frame between indictment and final conviction appears unreasonable long. · Since the second round, separate criminal offences of terrorist financing were introduced in Law 535/2004 on Preventing and Fighting Terrorism. Attempt is not covered under the reporting obligation. At the time of the on-site visit these provisions had not been tested in any investigation or prosecution.

· The Romanian FIU (NOPCML) undertakes a leading role in the development, coordination and implementation of the AML/CFT system. Although the NOPCML appears to be well staffed the number of persons who may perform on-site inspections seems to be insufficiently for the large number of entities to be supervised.

· On the preventive side Romania’s legal framework addresses in detail a substantial number of the FATF requirements on customer due diligence. However, in certain key areas there are a number of gaps: this is particularly relevant in those areas on which FATF places a considerable emphasis including identification of beneficial owners and identification of politically exposed persons. AML/CFT preventive measures also need to be enhanced for designated non financial businesses and professions.

· The NOPCML supervises all reporting entities, which do not have other supervisory authorities. It should be noted that joint supervision between the NOPCML and the prudential supervisory authorities is currently being undertaken. However, in the light of the number of reporting entities and the limited resources of the NOPCML Romania should consider either increasing NOPCML’s supervisory capacity, or redefining responsibilities between the various supervisors.

The report was adopted at MONEYVAL’s 27th Plenary meeting (Strasbourg, 7-11 July 2008). MONEYVAL will follow-up implementation of the recommendations through its progress report procedure, under which all MONEYVAL countries are required to update the Committee on action taken on the mutual evaluation report one year after its adoption.”

Romania : Progress report: first 3rd round written progress report submitted to MONEYVAL, 22 September 2009 [MONEYVAL(2009)28rev1]

III. PROTECTION OF HUMAN RIGHTS[19]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **March 2006,** following a visit to the country in **September 2004**

Press release of 16 December 2010:

“ “Romania needs to step up efforts to eliminate discrimination and improve Roma inclusion”, says Commissioner Hammarberg

“Roma continue to face persistent poverty and discrimination in Romania. Political determination and comprehensive action are urgently needed to improve their situation” said today the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing a letter addressed to the Prime Minister of Romania, Emil Boc, following the Commissioner’s visit to Romania last October.

The Commissioner is concerned about the anti-Roma rhetoric expressed by some public figures and media, as well as about the weak implementation of anti-discrimination legislation. “Roma are discriminated against in various areas, not least in employment, education, housing and health care. The government should strengthen its efforts and find inclusive solutions”.

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19. Romania is in 52nd position with a score of 16.00 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

As concerns housing in particular, Commissioner Hammarberg notes that most Roma live in communities segregated from the majority population, without access to basic services such as electricity, running water, central heating, and waste disposal. Forced evictions of Roma families who do not have proof of tenancy pose serious problems: “The right to adequate housing should be safeguarded at all times, and alternative decent shelter should be provided by the authorities in all cases of evictions”.

The Commissioner also underlines the need to strengthen the capacity of local authorities and non-governmental organisations to undertake action to improve the living conditions of Roma and foster their social inclusion. In this context, he welcomes the government’s plan to create mobile units that would assist municipalities in creating community projects aimed at fighting Roma marginalisation, and recommends the swift implementation of the plan in co-operation with Roma civil society.

Commissioner Hammarberg points at the high rates of unemployment among Roma as an additional obstacle to the efforts aimed at alleviating their poverty. “Discrimination in access to employment on grounds of Roma ethnic background is an obstacle for many Roma seeking employment. Resolute action is urgently needed to ensure the long-term integration of Roma into the labour market”.

As regards access of Roma to education, the Commissioner is deeply worried by the fact that a large number of Roma children do not attend schools, and by their high drop-out rates. He also deplores the continuing segregation of Roma students in schools. “In spite of promising initiatives undertaken by the authorities in recent years to tackle this problem, in some communities Roma students are still in separate classrooms or schools. More effective efforts are needed to establish a truly inclusive educational system in line with the member states’ undertakings contained in the Strasbourg Declaration on Roma, adopted last October”.

Finally, the Commissioner recommends the systematic teaching of the Council of Europe’s Factsheets on Roma History in schools, crucial to increasing understanding and respect. “Knowledge about the persecution endured by the Roma populations throughout the centuries is essential for better understanding this minority, and is a key element in fighting prejudice” added the Commissioner.”

Reply by Mr Emil Boc, Prime Minister of Romania to the letter from the Council of Europe Commissioner for Human Rights (15 December 2010) [CommDH(2010)54]

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **20 June 1994**

Protocol No. 6 (ETS No. 114) ratified on **20 June 1994**

Protocol No. 12 (ETS No. 177) ratified **17 July 2006**

Protocol No. 13 (ETS No. 187) ratified on **7 April 2003**

Protocol No. 14 (CETS No. 194) ratified on **16 May 2005**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **143** concerning Romania: 135 judgments finding at least one violation, 3 judgments finding no violation and 5 other judgments.[20]

Out of a total of 139,650 pending cases on 31 December 2010, **11 950** concerned Romania.

Resolutions adopted by the Committee of Ministers in 2010: **9**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 17 May 2011): **13**

No Interim Resolution

Extracts of Resolution 1787 (2011)**: Implementation of judgments of the European Court of Human Rights** (see Doc. 12455, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides. Text adopted by the Assembly on 26 January 2011):

“1. The Parliamentary Assembly considers itself duty-bound to contribute to the supervision of the effective implementation of the judgments of the European Court of Human Rights ("the Court"), on which the authority of the Court primarily depends.

20. Other judgments: just satisfaction, revision, preliminary objections and lack of jurisdiction

2. Although, according to Article 46 of the European Convention on Human Rights ("the Convention"), it is the Committee of Ministers which supervises the execution of Court judgments, the Assembly and national parliaments must now play a much more proactive role in this respect; if this is not done, the key role of the Convention, its supervisory mechanism and the Council of Europe as a whole, in guaranteeing the effective protection of human rights in Europe is likely to be put in jeopardy.

3. The Assembly has therefore decided to give priority to the examination of major structural problems concerning cases in which extremely worrying delays in implementation have arisen, currently in nine states parties: Bulgaria, Greece, Italy, Moldova, Poland, Romania, the Russian Federation, Turkey and Ukraine. Special in situ visits have been carried out by the rapporteur and Chairperson of its Committee on Legal Affairs and Human Rights to most of these states in order to examine with national decision makers the reasons for dilatory execution and/or non-compliance and to stress the urgent need to find solutions to these problems. […]

7. The Assembly, in particular, urges the following states to give priority to specific problems: […]

7.6.The issue of restitution of – or compensation for – nationalised property has to remain a priority for Romania (see the Court's pilot judgment *Maria Atanasiu and Others v. Romania* of 12 October 2010). The problem of excessive length of judicial proceedings and non-enforcement of final court decisions must now also be tackled. As regards the case of *Rotaru v. Romania*, concerning abuses of information by the Romanian Intelligence Service, despite the Committee of Ministers' insistence, legislative reform is still outstanding, some 10 years after the Court's judgment."

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **4 November 1993**, ratified on **4 October 1994**, entered into force on **1 February 1995**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152) signed on **4 November 1993**, ratified on **4 October 1994**, entered into force on **1 March 2002**

Last country visit: **September 2010**

Publication of the last report: **August 2010** (available in French only)

Press release of 26 August 2010:

"The Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) has published today the report on its *ad hoc* visit to Romania in September/October 2009, together with the response of the Romanian authorities. These documents have been made public at the request of the Romanian authorities.

The main objective of the visit was to review the situation of residents and patients at Nucet Medico-Social Centre and at Oradea Hospital for Neurology and Psychiatry (Bihor county), in the light of the recommendations and comments made by the Committee concerning these two establishments in the report on its 2006 visit."

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **16 May 2005**, ratified on **21 August 2006**, entered into force on **1 February 2008**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **11 May 1995**, entered into force on **1 February 1998**

Last opinion (2nd cycle) by the Advisory Committee adopted in **November 2005** [ACFC/OP/II(2005)007]

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **May 2007** [CM/ResCMN(2007)8]

Last state report (3rd cycle) received in **May 2011** [ACFC/SR/III(2011)002]

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **17 July 1995**, ratified on **29 January 2008**, entered into force on **1 May 2008**

Last periodic state report (1st cycle) submitted in **October 2010** [MIN-LANG/PR(2010)11]

No assessment report of the Committee of Experts to date

No recommendation of the CM to date

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the third report on Romania was adopted in June 2005 and made public in **February 2006**.

H. SOCIAL RIGHTS

European Social Charter of 1961(ETS No. 35)signed on **4 October 1994** but not ratified

European Social Charter (revised) (ETS No. 163) signed on 14 May 1997, ratified on 7 May 1999, entered into force on 1 July 1999

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified

Extract of the website of the European Social Charter (situation as of February 2011):

“Reports*

Between 2001 and 2011, Romania submitted 10 reports on the application of the Revised Charter.

The 9th report, submitted on 30 November 2009, concerns the accepted provisions related to Thematic Group 3 “Labour rights”, (Articles 2§§1, 2, 4, 5, 6 and 7, Articles 4 5, 6, 21, 28 and 29 of the Revised Charter). Conclusions relating to these provisions were published in December 2010.

The 10th report, submitted on 23 February 2011, concerns the accepted provisions related to Thematic Group 4 “Children, families, migrants”, i.e.:

– the right of children and young persons to protection (Article 7),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19§§7 and 8)

– the right of workers with family responsibilities to equal opportunity and treatment (Article 27§2).

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Situation of Romania with respect to the application of the Revised European Social Charter

Examples of progress achieved in the implementation of social rights under the European Social Charter[21]

Health

► Adoption of the Law on Safety and Health at Work No. 319/2006 which entered into force on 1 October 2006.

21. The [European Committee on Social Rights] rules on the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. It adopts conclusions in the framework of the reporting procedure and decisions under the collective complaints procedure (Article 2 of the Rules of the Committee).

► Adoption of the Law no 95/2006 on the reform in the field of health care.

► Adoption of the Law no. 47 of 16 June 2005 on the national system of social assistance

► Restrictions on tobacco advertising and sale (Act No. 148/2000);

► Measures preventing and combating the effects of the tobacco products (Act No. 90/2004).

Children

► Adoption of a comprehensive framework on the protection and promotion of the rights of the child and setting up of the National Authority for the Protection of the Rights of the Child (Act No. 272/2004 on the Protection of the Rights of the Child).

►National action plan to eliminate child labour approved by Government decision No. 1769/2004.

► Prohibition of trafficking of children for any kind of exploitation, including sexual (Act No. 678/2001 on the Prevention and Combat of Trafficking in Human Beings).

Non-discrimination (sex)

► Prohibition of all forms of discrimination on grounds of sex in access to social security benefits (Act No. 76/2002)

► Prohibition of all forms of discrimination on grounds of sex in all aspects of working life and right to equal pay for a work of equal value (Act No. 202/2002)

Non-discrimination (employment)

► Prohibition of all forms of discrimination in employment (Ordinance No. 137/2000 as modified by Act No. 48/2002)

Non-discrimination (disability)

► Exemption of all persons with disabilities working on individual employment contracts from tax on their wages (Governmental Emergency Ordinance No. 102/1999 approved by Act No. 519/2002)

► Prohibition of discrimination in employment on the grounds of disability (Decree No. 77/2003 and Labour Code as revised)

► Adoption of an antidiscriminatory legislation to promote an equal and free access to any form of education for people with disabilities (Act No. 448/2006 on the protection and promotion of the rights of people with disabilities).

Right of children and young persons to protection

► Adoption of measures to prevent and protect children and young persons against domestic violence (Act No. 217/2003).

Employment

► Regulation of special types of contracts of employment (temporary agency work, part-time employment, employment on fixed term contracts, home-based work) (Labour Code as revised in 2003).

► Right of employees to set up and join trade unions, without any restriction, including nationality, or preliminary authorisation (Act No. 54/1991 on trade unions as revised in 2003).

► Right of civil servants to organise in principle (Act No. 344/2004 on the status of civil servants)

► Right of female employees to a compulsory 42 days postnatal leave (Article 16 of Government Emergency Ordinance No 96/2003)

► Phasing out of compulsory military service (Act No. 395/2005). Alternative service is supposed to disappear.

Right of workers to the protection of the claims in the event of insolvency of their employer

► Establishment of a guarantee fund to protect employees' wage claims in the event of their employers' insolvency (Act 200/2006).

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

► Article 1§1 – Right to work – Policy of full employment

The measures taken to remedy long-term unemployment and youth unemployment rate are inadequate for achieving substantial improvement of the situation. (Conclusions 2008)

► Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

The length of alternative service excessively restricts the workers right to earn a living in an occupation freely entered upon. (Conclusions 2008)

► Article 1§3 – Right to work – Free placement services

The right to free employment services is not guaranteed. (Conclusions 2008)

► Article 1§4 – Right to work – Vocational guidance, training and rehabilitation

Mainstreaming of persons is not effectively guaranteed in the field of education and training as the number of children with disabilities attending special education is high and a considerable number of children with disabilities is left without education. (Conclusions 2008)

► Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Vocational training for persons with disabilities

The mainstreaming of persons with disabilities is not effectively guaranteed in education and training. The number of children with disabilities attending special education is high and a considerable number of children with disabilities is left without education. (Conclusions 2008)

► Article 18§3 – Right to engage in a gainful occupation in the territory of other States Parties – Liberalising regulations

Formalities governing the access of foreign workers to the national labour market are not simplified. (Conclusions 2008)

Thematic Group 2 “Health, social security and social protection”

► Article 3§1 – Right to safe and healthy conditions – Health and safety and the working environment

The national policy on health and safety does not include training, information, quality assurance and research in a satisfactory manner. (Conclusions 2009)

► Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations

The domestic workers are not covered by occupational health and safety regulations. (Conclusions 2009)

► Article 3§3 – Right to safe and healthy working conditions – Enforcement of safety and health regulations

Statistics on occupational accidents are not reliable. (Conclusions 2009)

► Article 11§1 – Right to protection of health – Removal of the causes of ill-health

Infant and maternal mortality rates are too high and measures taken to reduce them are inadequate. The conditions in certain psychiatric hospitals are manifestly inadequate and reasonable health care waiting times as well as the management of waiting lists are unsatisfactory. (Conclusions 2009)

► Article 11§2 – Right to protection of health – Advisory and educational facilities

There is no public awareness-raising and information campaigns on the subject of infant and maternal mortality. It has not been established that health education activities are organised on the harmful effects of smoking and alcoholism and the prevention of sexually transmitted diseases and Aids. (Conclusions 2009)

► Article 12§1 – Right to social security – Existence of social security system

The adequacy of old age benefit, survivors' benefit and employment injury benefit is unsecured. (Conclusions 2009)

►Article 12§2 – Right to social security – Maintenance of a social security system at a satisfactory level at least equal to that required for the ratification of the European Code of Social Security

The maintenance of a social security system does not meet the requirements of the European Code of Social Security. (Conclusions 2009)

► Article 12§4 – Right to social security – Social security of persons moving between states

The retention of accrued benefits for persons moving to a State Party which is not covered by Community regulations or not bound by an agreement with Romania is not guaranteed and nationals of States Parties not covered by Community regulations or not bound by an agreement concluded with Romania have no possibility of accumulating insurance or employment periods completed in other countries. (Conclusions 2009)

► Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need

The level of social and medical assistance is inadequate. It has not been established that the possibility of withdrawal of assistance in response to the failure to undertake community work does not amount to a complete deprivation of means of subsistence for the person concerned. The right of appeal in cases related to inadequate assistance is not effectively guaranteed. (Conclusions 2009)

Thematic Group 3 “Labor rights”

► Article 2§2 – Right to just conditions of work – Public holidays with pay

The right of workers to a longer rest period in compensation for work carried out on a public holiday is not guaranteed. (Conclusions 2010)

► Article 4§1 – Right to a fair remuneration – Decent remuneration

The minimum wage is manifestly unfair (Conclusions 2010)

► Article 4§2 – Right to a fair remuneration – Increased remuneration for overtime work

The right of workers to a longer rest period in compensation for overtime work is not guaranteed. (Conclusions 2010)

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment

The notice period is too short for employees with over six months’ service. (Conclusions 2010)

► Article 4§5 – Right to a fair remuneration – Limits to deduction from wages

It has not been established that deductions from wages will not deprive workers and their dependents of their very means of subsistence. (Conclusions 2010)

► Article 5 – Right to organise

The requirement of Romanian nationality for the representation of the two sides of industry at the Economic and Social Council is excessive. (Conclusions 2010)

► Article 6§4 – Right to bargain collectively – Collective action

1. A trade union may take collective action only if it fulfils representativeness criteria which unduly restricts the right of trade unions to take collective action;

2. Employers may have recourse to compulsory arbitration in circumstances which go beyond those permitted by Article G of the Revised Charter. (Conclusions 2010)

Thematic Group 4 “Children, families, migrants”

► Article 7§1 – Right of children and young persons to protection – Prohibition of employment under the age of 15

1. Young people employed as domestic staff are not covered by labour legislation.

2. The prohibition of employment under the age of 15 is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§2 – Right of children and young persons to protection – Prohibition of employment under the age of 18

1. Young people employed as domestic staff are not covered by labour legislation.

2. The prohibition of employment under the age of 18 is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§3 – Right of children and young persons to protection – Prohibition of employment of children subject to compulsory education

1. Definition of light work for children aged more than 15 still subject to compulsory education does not adequately reflect the notion of light work used under Article 7 of the Revised Charter.

2. Children aged more than 15 still subject to compulsory education are not guaranteed the benefit of a sufficiently long rest period during holidays.

3. The right of children to fully benefit of compulsory education is not guaranteed due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§4 – Right of children and young persons to protection – Working time

1. Young people employed as domestic staff are not covered by labour legislation.

2. The right to restricted working hours, in accordance with the developments needs of children, is not guaranteed in practice due to the ineffective application of the legislation.(Conclusions 2006)

► Article 7§5 – Right of children and young persons to protection – Fair pay

1. Young people employed as domestic staff are not covered by labour legislation.

2. The right of young workers and apprentices to a fair wage or other appropriate allowances is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§6 – Right of children and young persons to protection – Inclusion of time spent on vocational training in the normal working time

1. Young people employed as domestic staff are not covered by labour legislation.

2. The right to have time spent on vocational training considered to be working time and remunerated as such is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§7 – Right of children and young persons to protection – Paid annual holidays

1. Young people employed as domestic staff are not covered by labour legislation.

2. The right to paid annual leave is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§8 – Right of children and young persons to protection – Prohibition of night work

1. Young people employed as domestic staff are not covered by labour legislation.

2. The prohibition of night work is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§9 – Right of children and young persons to protection – Regular medical examination

1. Young people employed as domestic staff are not covered by labour legislation.

2. The right to regular medical examinations is not guaranteed in practice due to the ineffective application of the legislation. (Conclusions 2006)

► Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers

The number of trafficked children is too high and measures in place are not sufficiently effective. (Conclusions 2006)

► Article 16 – Right of the family to social, legal and economic protection

The social protection of Roma families is manifestly insufficient because of shortage of housing. The level of benefits in general is inadequate. (Conclusions 2006)

► Article 17§1 – Right of mothers and children, to social, legal and economic protection – Assistance, education and training

Corporal punishment of children within the family was not prohibited during the reference period.

The level of non-attendance in compulsory school is manifestly too high. (Conclusions 2005)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Romanian Government to provide more information in the next report:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2011)

► Article 15§2 – Conclusions 2008

► Article 24 – Conclusions 2008

► Article 25 – Conclusions 2008

Thematic Group 2 “Health, social security and social protection”

(Report to be submitted before 31 October 2012)

► Article 11§3 – Conclusions 2009

► Article 13§2 and 3 – Conclusions 2009

Thematic Group 3 “Labour rights”

(Report to be submitted before 31 October 2013)

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Thematic Group 4 “Children, families, migrants”

(Report to be submitted before 31 October 2010,Conclusions to be published by the end of 2010)

► Article 8§3 – Conclusions 2005

► Article 17§2 – Conclusions 2005

► Article 19§8 – Conclusions 2006”

I. Parliamentary Assembly

Cf. above “III. PROTECTION OF HUMAN RIGHTS, B. EUROPEAN CONVENTION ON HUMAN RIGHTS”

11 May 2011

6. SAN MARINO

Council of Europe member state since **16 November 1988**

Number of Council of Europe Conventions ratified (as of 11 May 2011): **44** (out of 210)

Number of Council of Europe Conventions signed (as of 11 May 2011): **12**

I. PLURALISTIC DEMOCRACY[22]

A. Free and fair elections

System of government: parliamentary democracy

Last election of the Captains Regent: **April 2011**

22. The non-governmental organisation Freedom House gives to San Marino a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

Next election of the Captains Regent: **October 2011**

Last general elections: **2008**

Next general elections: **2013**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) neither signed nor ratified

Last Congress of Local and Regional Authorities monitoring report: May 1999

II. RULE OF LAW

A. VENICE COMMISSION

No opinion concerning San Marino

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in San Marino was … euros (data not supplied);

– the **number of professional judges** in 2008 in San Marino was **19**, this means 60.8 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in San Marino was **3**, this means 9.6 for 100 000 inhabitants.

C. The fight against corruption and organised crime

Civil Law Convention on Corruption (ETS No. 174)neither signed nor ratified

Criminal Law Convention on Corruption (ETS No. 173) and Additional Protocol (ETS No. 191) signed on 15 May 2003 but not ratified

Press release of 16 August 2010:

“San Marino joins the Council of Europe Group of States against Corruption (GRECO)

The Republic of San Marino has joined the Council of Europe Group of States against Corruption (GRECO) on 13 August 2010 as its 48th Member State.

This accession further strengthens GRECO’s role as the reference for anti-corruption monitoring in Europe: its membership extends to the entire continent, all 47 Member States of the Council of Europe, and beyond to the United States of America.

By joining GRECO, San Marino actively commits itself to fighting corruption. An evaluation team will soon visit the country to assess the capability of national institutions to deal with corruption cases, immunities as a possible obstacle to prosecution, the deprivation of the proceeds of corruption, integrity in public administration, and responsibility of legal persons.

Next year, GRECO will issue a report summing up the findings of the on-site evaluation and containing recommendations prompting the necessary legislative, institutional and practical anti-corruption reforms. A further evaluation visit will be organised at a later stage to address the criminalisation of bribery and trading in influence, as well as transparency of party funding.”

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 16 November 1995, ratified on 12 October 2000, entered into force on 1 February 2001

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 14 November 2006, ratified on 27 July 2010, entered into force on 1 November 2010

Press release of 22 September 2008:

"MONEYVAL publishes its 3rd Round Evaluation Report on San Marino

The Council of Europe's MONEYVAL Committee (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) has published today the Third Round Evaluation report on San Marino. This report analyses the implementation of international and European standards to combat money laundering and terrorist financing, assesses levels of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations and includes a recommended action plan to improve the San Marino anti money laundering and combating the financing of terrorism (AML/CFT) system.

The main findings of the evaluation report are:

• The money laundering offence is criminalised under article 199bis of the Criminal Code as amended in 2004 and appears to be basically in line with international standards. It was tested successfully for the first time in 2005. Implementation needs to be addressed by the authorities through a firm prosecution policy.

• The anti-terrorist financing legal framework does not presently meet international standards and needs to be reviewed.

• The system in place regarding provisional measures and confiscation enables sufficient action, though some amendments to the legislation are recommended and the powers of the competent authorities to identify and trace proceeds need reviewing.

• A number of steps were taken by San Marino to ensure compliance with the United Nations (UN) Security Council Resolutions; however the legal framework for the implementation of the UN sanctions remains incomplete.

• There were serious concerns about the financial intelligence unit at the time of the on-site visit. The evaluation team recommended that the current institutional arrangements for the financial intelligence unit should be revisited. Specific legislation should be adopted to clearly define its functions, responsibilities and powers as an independent agency.

• The effectiveness and efficiency of the framework for the investigation and prosecution of offences, in particular money laundering offences, was questioned and it is strongly advised that the law enforcement authorities play a more active role in AML/CFT efforts.

• The preventive system dealing with customer identification is not in line with the international standards. There are deficiencies in AML/CFT supervision in the banking area and the effectiveness of the powers of the supervisory authority had not been tested fully due to a low level of inspections. Designated non-financial businesses and professions are neither supervised nor monitored. The staff resources assigned to inspections was inadequate.

• The total number of suspicious and unusual transactions reports appears low, with very few reports from outside the banking sector.

• A number of recommendations are made to increase transparency of information on beneficial ownership and control of companies.

• San Marino has a framework for providing international co-operation and is able to do so, though some shortcomings were identified. Co-operation by the financial intelligence unit with its foreign counterparts also needs reviewing.

The report was adopted at MONEYVAL's 26th Plenary meeting (Strasbourg, 31 March – 4 April 2008). As a result, San Marino was required, under compliance enhancing procedures, to report back to the MONEYVAL Plenary on measures taken to address identified deficiencies. Its first compliance report was released on 24 July 2008. MONEYVAL will continue to follow-up implementation of the recommendations through its compliance procedure until it is lifted and also under its progress report procedure."

First written progress report submitted to MONEYVAL by San Marino [adopted by MONEYVAL at its 29th Plenary Meeting, Strasbourg, 16-20 March 2009, MONEYVAL(2009)5]

San Marino : First compliance report adopted by MONEYVAL at its 27th Plenary Meeting [7-11 July 2008, MONEYVAL(2008)17]

San Marino : Second compliance report adopted by MONEYVAL at its 28th Plenary Meeting [8-12 December 2008, MONEYVAL(2008)39]

San Marino : 3rd compliance report, 24 September 2009 adopted at MONEYVAL's 30th Plenary Meeting [Strasbourg, 21-24 September 2009, MONEYVAL(2009)32]

III. PROTECTION OF HUMAN RIGHTS

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **April 2008,** following a visit to the country in **January 2008**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **22 March 1989**

Protocol No. 6 (ETS No. 114) ratified on **22 March 1989**

Protocol No. 12 (ETS No. 177) ratified **25 April 2003**

Protocol No. 13 (ETS No. 187) ratified on **25 April 2003**

Protocol No. 14 (CETS No. 194) ratified on **2 February 2006**

Out of a total of 1,499 judgments delivered by the Court in 2010, there was no judgment concerning San Marino.

Out of a total of 139,650 pending cases on 31 December 2010, **6** concerned San Marino.

Resolutions adopted by the Committee of Ministers in 2010: **0**

Resolutions adopted by the Committee of Ministers in 2011 (as of 11 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **16 November 1989**, ratified on **31 January 1990**, entered into force on **1 May 1990**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152) signed on **4 November 1993**, ratified on **5 December 1996**, entered into force on **1 March 2002**

Last country visit: **February 2005**

Publication of the last report: **February 2008**

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **19 May 2006**, ratified on **29 November 2010**, entered into force on **1 March 2011**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **11 May 1995**, ratified on **5 December 1996**, entered into force on **1 February 1998**

Last state report (3rd cycle) received in **April 2009** [ACFC/SR/III(2009)004]

Last opinion (3rd cycle) by the Advisory Committee adopted in **June 2009** [ACFC/OP/III(2009)002]

Last CM resolution(3rd cycle) on the implementation of the Framework Convention adopted in **April 2010** [CM/ResCMN(2010)2]

Press release of 18 December 2009:

"Protection of National Minorities: San Marino facilitates immigrants' integration

San Marino demonstrates a constructive approach towards a correct implementation of the Framework Convention for the Protection of National Minorities of the Council of Europe. According to the Third Opinion of the Advisory Committee published today, important legal measures have been adopted against discrimination as well as initiatives to facilitate immigrants' integration.

The Advisory Committee welcomes the general climate of dialogue and tolerance in the country, with no record of any overt form of discrimination and intolerance. In order to contribute to the preservation of an atmosphere of mutual understanding in San Marino, it points out that further efforts are needed to increase awareness of the relevance of fighting racism. The Committee also recommends setting-up an independent institution to monitor racism and discrimination."

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) neither signed nor ratified

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the third report on San Marino was adopted in December 2007 and made public in **April 2008**.

H. SOCIAL RIGHTS

European Social Charter of 1961(ETS No. 35)neither signed nor ratified

European Social Charter (revised) (ETS No. 163) signed on 18 October 2001 but not ratified

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified

I. Parliamentary Assembly

Resolution 1789 (2011): Challenge on procedural grounds of the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia (see Doc. 12488, report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Mr Haibach. Text adopted by the Assembly on 26 January 2011)

Press release of 11 April 2011:

"Credentials of three national delegations approved after they each appoint at least one woman Representative

The credentials of the national delegations to the Parliamentary Assembly of the Council of Europe (PACE) from Montenegro, San Marino and Serbia were approved today, on the opening day of the Assembly's spring session, after all three submitted new delegations which include at least one woman Representative.

The credentials of the three delegations were challenged in January following new rules – aimed at improving gender-balance in the Assembly – which require national delegations to appoint at least one Representative from "the under-represented sex".

The Assembly decided to give all three delegations until the opening of the April session to take this step, or have their voting rights suspended."

11 May 2011

7. SLOVAK REPUBLIC

Council of Europe member state since **30 June 1993**

Number of Council of Europe Conventions ratified (as of 11 May 2011): **96** (out of 210)

Number of Council of Europe Conventions signed (as of 11 May 2011): **6**

I. PLURALISTIC DEMOCRACY[23]

A. Free and fair elections

System of government: parliamentary democracy

Last presidential elections: **2009**

23. The non-governmental organisation Freedom House gives to the Slovak Republic a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

Next presidential elections: **2014**

Last general elections: **2010**

Next general elections: **2014**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 23 February 1999, ratified on 1 February 2000, entered into force on 1 June 2000

Last Congress of Local and Regional Authorities monitoring report: October 2006

II. RULE OF LAW

A. VENICE COMMISSION

Extracts of: **Opinion on the Act on the State Language of the Slovak Republic** adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010, CDL-AD(2010)035):

"I. Introduction

1. On 25 September 2009, the authorities of the Slovak Republic requested the Venice Commission to prepare an opinion on the amendments, adopted in 2009, to Act No. 270/1995 on the State Language of the Slovak Republic (CDL(2010)076, hereinafter "the State Language Act").

2. A working group was set up, composed of Messrs Sergio Bartole, Ben Vermeulen and Jan Velaers.

3. In January 2010 the working group, accompanied by Ms Simona Granata-Menghini of the Venice Commission secretariat, travelled to the Slovak Republic in order to meet with the authorities as well as with representatives of the minorities living in that country. The Venice Commission wishes to thank them all for the fruitful discussions which took place on this occasion.

4. Subsequent to the visit, the working group submitted a list of questions to the Slovak authorities, aiming at understanding better the legal and factual background as well as at obtaining clarifications of the amendments under examination. The Slovak Ministry of Culture and the Ministry of Education provided their replies to the questions in March 2010 (see CDL(2010)078 and CDL(2010)079 respectively).

5. In the preparation of the present opinion, the working group consulted the Advisory Committee on the Framework Convention for the Protection of National Minorities. It also consulted an expert on the European Charter for Regional or Minority Languages (CDL(2010)079). […]

VI. Conclusions

132. The protection and promotion of the official language of the state is a legitimate concern common to many European countries. It pursues several legitimate aims; it protects *in primis* public order, by ensuring that the State may have access to essential information and communication in its territory and may intervene where appropriate and be held fully accountable. It guarantees the development of the identity of the State community, and further ensures mutual communication among and within the constituent parts of the populations. It avoids that citizens may suffer discrimination in the enjoyment of their fundamental rights in areas where the persons belonging to national minorities have a majority position.

133. Protection and promotion of the state language also promotes social cohesion and integration of national minorities and helps avoiding that persons belonging to minorities be confined to specific geographical areas where the relevant minority language is spoken, which might limit the possibility for them, if they so wish, to circulate and settle down anywhere within the territory of the state in order to pursue their professional and personal development.

134. Protection and promotion of the state language must be balanced against protection and promotion of the linguistic rights of persons belonging to national minorities. These rights are guaranteed and protected at the international as well as at the national level. The right of the majority of the population to speak the official language and the right of persons belonging to minorities to use their minority language are compatible and may co-exist with each other without conflict, provided that a positive approach is taken by both the majority and the minorities towards each other. The obligation to use the official language should be confined to genuine cases of public order needs and bear a reasonable relation of proportionality; the extent of public

order need may depend on the attitude of the national minorities. In other cases where the State deems necessary or appropriate or desirable to ensure the use of the state language in addition to minority languages, it should provide adequate facilities and financial means.

135. The Venice Commission has examined the State Language Act of the Slovak Republic, as amended in 2009 and as complemented by the "Principles" of the Slovak Government. It considers that it pursues the legitimate aims exposed above. It considers nevertheless that, for reasons of legal certainty, the relations of the Slovak Language Act with other pieces of legislation on minority protection as well as the legal status of the "Principles" should be clarified. Several "principles" should be contained in the law.

136. The Venice Commission further finds that certain provisions of the Act are incompatible with the international obligations which the Slovak Republic has undertaken and as such should be revised. These provisions relate: to the obligation to use the state language in official communication in areas where the minority population does not reach the threshold of 20%; to the duty for private persons to use of the official language in contacts with the authorities; to the obligation to use the state language in judicial proceedings, administrative proceedings and proceedings before law-enforcement authorities if one has sufficient command of it and to the non-recognition of contracts drafted in minority languages.

137. The Venice Commission finally considers that certain measures of promotion and protection of the state language, as they are currently formulated in the State Language Act, should be carefully examined and possibly revised so as to avoid that their impact be disproportionate. These provisions relate: to the duty to use the State language in all official records and documents of churches and religious communities intended for the public; to the duty for minority schools to keep all pedagogical and other documents also in the state language; to the rules on television broadcasting; to the duty to use the state language in cultural activities; to the duty to use the state language in the Armed Forces, Armed Corps and Fire Brigades; to the duty to use the state language in documents and written statements with legal effect in employment and other working relations; to the duty to keep in the state language financial and technical documentation and bylaws of associations, societies, political parties, political movements and companies; to the duty for private persons to present all signs, advertisements and notices intended for the public in the state language, and to the system of fines.

138. The Venice Commission remains at the disposal of the Slovak Republic, should they wish assistance in this respect."

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in the Slovak Republic was **€ 37,9**;

– the **number of professional judges** in 2008 in the Slovak Republic was **1,388,** this means 25.7 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in the Slovak Republic was **897**, this means 16.6 for 100 000 inhabitants.

C. The fight against corruption and organised crime[24]

Civil Law Convention on Corruption (ETS No. 174) signed on 8 June 2000, ratified on 21 May 2003, entered into force on 1 November 2003

Criminal Law Convention on Corruption (ETS No. 173) signed on 27 January 1999, ratified on 9 June 2000, entered into force on 1 July 2002, Additional Protocol (ETS No. 191) signed on 12 January 2005, ratified on 7 April 2005, entered into force on 1 August 2005

24. The Slovak Republic is in 59th position with a score of 4.3 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Slovak Republic** adopted by GRECO at its 38th Plenary Meeting [Strasbourg, 9-13 June 2008, GrecoRC-II(2006)6Eaddendum]:

"Conclusion

64. In addition to the conclusions contained in the Second Round Compliance Report on the Slovak Republic and in view of the above, GRECO concludes that recommendations i, x and xiv have been implemented satisfactorily and recommendations xiii and xvii have been dealt with in a

satisfactory manner. Recommendations vi, vii and xvi remain partly implemented and recommendation xi has not been implemented.

65. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 18 recommendations issued to the Slovak Republic, in total 14 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. As regards the not or partly implemented recommendations, GRECO regrets in particular that liability of legal persons for bribery, money laundering and trading in influence has still not been introduced and urges the Slovak authorities to vigorously pursue this legislative project. Moreover, it is unfortunate that despite the insistence of the Slovak authorities on the desirability of regulating conflicts of interest and other ethical issues for public officials in a law (rather than in a code of ethics), provisions on this topic remain vague. GRECO therefore strongly urges the Slovak authorities to take further measures to provide for more specific regulations on this topic for all public officials, in particular on gifts and on revolving doors as required by the recommendation, whether this is done in a law or in a code of ethics (preferably both).[25] In this context, the Slovak authorities might wish to draw inspiration from the Council of Europe's Recommendation No. R(2000) 10 on codes of conduct for public officials, the model code of conduct which is appended thereto and the explanatory memorandum. The Slovak authorities may also wish to report, in due course, on further progress in respect of the outstanding recommendations.

66. The adoption of this Addendum to the Compliance Report concludes the Second Evaluation Round compliance procedure concerning the Slovak Republic.

67. Finally, GRECO invites the Slovak authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

Extract of: Third Evaluation Round: Compliance Report on the Slovak Republic "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 46th Plenary Meeting [Strasbourg, 22-26 March 2010, GRECORC-III(2010)3E]:

"Conclusions

70. In view of the above, GRECO concludes that the Slovak Republic has implemented satisfactorily only one of the sixteen recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendation i has been implemented satisfactorily and recommendations ii, iii and v have been partly implemented; recommendations iv and vi have not been implemented. With respect to Theme II – Transparency of Party Funding, recommendations i to x have not been implemented.

71. As regards incriminations, Slovakia has managed to incriminate the "offering" of an undue advantage / bribe in respect of active bribery and active trading in influence, which is a welcome improvement. Some clarification was also provided as regards court practice in respect of bribery offences (in respect of which an expert review is under way) and trading in influence. However, for the time being, it does not allow drawing firm conclusions. GRECO regrets that insufficient or no consideration at all has been given to several of the other improvements recommended in the Evaluation Report, even though it would appear that the incrimination of bribery of arbitrators and jurors is partly ensured through the existing provisions. Insofar as transparency of party funding is concerned, the overall picture is even more disappointing: no discernible progress has been made in respect of any of the recommendations. It was stressed by the authorities that amendments to Act No. 85/2005 Coll. were under preparation to provide for more effective, proportionate and dissuasive sanctions in case of non compliance with the party financing regulations; however, more concrete information was not made available about the intended amendments. It should also be stressed that much of the information submitted by the Slovak authorities consisted in a re-statement of elements already contained in the Evaluation Report. There is therefore little evidence that the concerns raised in the said report have been given any thorough consideration.

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25. As indicated in paragraph 38 above, GRECO remains of the strong opinion that it would be useful to complement any conflicts of interest provision in the law by a code of ethics.

72. In view of the above, GRECO therefore concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of the Slovak delegation to provide a report on the progress in implementing the outstanding recommendations (i.e. recommendations ii to vi regarding Theme I and recommendations i to x regarding Theme II) as soon as possible, however – at the latest – by 30 September 2010, pursuant to paragraph 2(i) of that Rule.

73. Finally, GRECO invites the authorities of the Slovak Republic to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make this translation public."

Extract of: Third Evaluation Round: *Interim* Compliance Report on the Slovak Republic "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 49th Plenary Meeting [Strasbourg, 29 November – 3 December 2010, GRECORC-III(2010)3E Interim Report):

"Conclusions

17. In view of the above, GRECO concludes that no tangible progress has been achieved by the Slovak Republic as regards the implementation of the recommendations found to be not or partly implemented in the Third Round Compliance Report. With respect to Theme I – Incriminations, recommendations ii, iii and v remain partly implemented; recommendations iv and vi have not been implemented. With respect to Theme II – Transparency of Party Funding, recommendations i to x still have not been implemented.

18. Notwithstanding this disappointing result, GRECO notes that a working group was established to deal with the implementation of the outstanding recommendations contained in the Third Round Evaluation Report. The Slovak authorities plan to speedily prepare legislation meant to address outstanding recommendations on part I – Incriminations. Similarly, the working group intends to deal with the outstanding recommendations concerning part II – Party financing by means of appropriate provisions to be included in an electoral code to be drafted after political parties have been consulted on their respective position. However, for the time being and apart from declarations of good intention, there is no agenda or more concrete information available as to the content of the planned legislation; especially as regards Theme II –Transparency of party financing, the translation of these good intentions into concrete action remains particularly uncertain.

19. In view of the above, GRECO therefore concludes that the current level of compliance with the recommendations remains "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure.

20. GRECO furthermore decides, in accordance with Rule 32, paragraph 2 subparagraph (ii), that the President of GRECO will send a letter, with a copy to the President of the Statutory Committee, to the Head of Delegation of the Slovak Republic, drawing his attention to non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.

21. Pursuant to paragraph 8.2 of Rule 31 revised of the Rules of Procedure, GRECO requests the Head of the Slovak delegation to provide a report regarding the action taken to implement the

pending recommendations (i.e. recommendations ii to vi regarding Theme I and recommendations i to x regarding Theme II) by 30 September 2011.

22. Finally, GRECO invites the authorities of the Slovak Republic to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make this translation public."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 8 September 1999, ratified on 7 May 2001, entered into force on 1 September 2001

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 12 November 2007, ratified on 16 September 2008, entered into force on 1 January 2009

Slovakia: Progress report: second 3rd round written progress report submitted to MONEYVAL, 23 September 2009 [MONEYVAL(2009)19rev1]

III. PROTECTION OF HUMAN RIGHTS[26]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **March 2006,** following visits to the country in **May 2001** and **September 2003**

Press release of 25 June 2010:

“European states must respect Strasbourg Court’s orders to halt deportations

“Some European states have deported persons to countries where they are at risk of torture or other ill-treatment, despite clear decisions by the European Court of Human Rights (ECtHR) not to deport them. This disrespect towards the ECtHR and the rule of law puts human lives in serious danger” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing today his latest human rights comment.

The ECtHR can, under its Rule 39, ask a state to suspend deportations until the Court has examined the case. However, these decisions have not been respected in several crucial cases and individuals have been deported to countries where they are at risk of torture or other ill-treatment.

Commissioner Hammarberg highlights the cases of Italy, which failed at least four times to comply with the interim measures ordered by the ECtHR by expelling applicants to Tunisia, as well as the expulsion from Slovakia of an Algerian national. He further stresses that there are reports showing that, in other cases, some applicants expelled have been imprisoned and even tortured, while the whereabouts of other deported are unknown.

“Rule 39 is vital for individual applicants. For those who might face a risk of violation of their human rights, the ECtHR is often their ultimate hope to stop a forced return to a country where they could be exposed to a treatment in violation of the European Convention on Human Rights.”

The Commissioner underlines that interim measures ordered by the ECtHR are legally binding and should always be strictly respected by member states. “Failure to comply with them seriously jeopardizes the effectiveness of the European system of human rights protection.””

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **18 March 1992**

Protocol No. 6 (ETS No. 114) ratified on **18 March 1992**

Protocol No. 12 (ETS No. 177) signed on **4 November 2000**

Protocol No. 13 (ETS No. 187) ratified on **18 August 2005**

Protocol No. 14 (CETS No. 194) ratified on **16 May 2005**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **40** concerning the Slovak Republic: 40 judgments finding at least one violation.

Out of a total of 139,650 pending cases on 31 December 2010, **1,235** concerned the Slovak Republic.

Resolutions adopted by the Committee of Ministers in 2010: **5**

1 Interim Resolution:

Interim Resolution CM/ResDH(2010)225 on the judgments of the Court of Human Rights in 78 cases against the Slovak Republic concerning excessive length of civil proceedings (adopted by the Committee of Ministers on 2 December 2010)

Resolutions adopted by the Committee of Ministers in 2011 (as of 11 May 2011): **4**

No Interim Resolution

Press release of 29 April 2010:

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26. The Slovak Republic is in 35th position with a score of 11.50 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

“Disregard by Slovakia of binding interim measures ordered by the Strasbourg Court ‘unacceptable’

The Chairpersons of two committees of the Parliamentary Assembly of the Council of Europe (PACE) have expressed their shock and concern at the decision taken by the Slovak authorities to extradite Mustapha Labsi to Algeria on 19 April 2010, ignoring a binding interim measure ordered by the European Court of Human Rights that this applicant should not be extradited to Algeria.

“It is disgraceful to have extradited Mustapha Labsi to Algeria; this is a case in which there exists an imminent risk of irreparable damage to the applicant,” said Christos Pourgourides (Cyprus, EPP/CD), Chair of PACE’s Committee on Legal Affairs and Human Rights, and John Greenway (United Kingdom, EDG), Chair of the Committee on Migration, Refugees and Population.

“Such action directly undermines the authority of the Strasbourg Court at a time when all member states have just reiterated their attachment to the Court. This is an unacceptable disregard of European Convention on Human Rights requirements," they added.”

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **23 December 1992**, ratified on **11 May 1994**, entered into force on **1 September 1994**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed on **7 March 1994**, ratified on **11 May 1994**, entered into force on **1 March 2002**

Last country visit: March – April 2009

Publication of the last report: **February 2010**

Press release of 11 February 2010:

“The Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) has published today the report on its fourth periodic visit to the Slovak Republic, carried out in March/April 2009, together with the response of the Slovak Government. These documents have been made public at the request of the authorities of the Slovak Republic.

The findings of the 2009 visit indicate that there has been an improvement in the treatment of persons deprived of their liberty by law enforcement officials, as compared to the situation found during previous visits to Slovakia by the CPT. However, in addition to a number of complaints concerning remarks of a racist nature, the delegation did receive several allegations of physical ill-treatment of detained persons by police officers, which concerned mainly excessive use of force during apprehension. As for investigations into allegations of police ill-treatment, the CPT has recommended that the Slovak authorities improve the effectiveness and independence of such investigations. The report also assesses the procedural safeguards against ill-treatment and concludes that further action is required in order to bring the law and practice in this area into line with the Committee’s standards. In their response, the Slovak authorities provide inter alia information on the training received by police officers in respect of apprehension techniques.

As regards the detention centres for foreigners visited in Medved’ov and Sečovce, the CPT gives an overall positive assessment. However, it is recommended that the programme of activities offered to foreigners be developed. The report also expresses concern over the unregulated nature of the “separation regime” in place for the seclusion of certain detainees and the lack of appropriate safeguards surrounding that regime. According to the authorities’ response, an alien is placed under a separation regime in circumstances determined by law and for a period of time which is reasonably necessary.

On prison matters, the Committee criticises the practice of collective strip searches and the use of dogs for routine prison duties involving inmates. As for the situation of life-sentenced prisoners, the report notes that certain measures have been taken to improve the detention regime of these persons, most notably by the introduction of an internal differentiation aimed at mitigating the standard regime. However, it would appear that this development has yet to be fully implemented; the regime afforded to the vast majority of life-sentenced prisoners remained impoverished. The conditions of prisoners held in the High-Security Department in Leopoldov Prison is another issue of concern for the CPT. The Committee observed that the High Security Department is limited to providing a secure setting, while the majority of prisoners it accommodates appear to be in need of psychiatric care. The Slovak authorities’ response states inter alia that the provision of the Ilava Prison internal regulations authorizing the use of service-dogs during evening head-counts has been repealed. As regards the High Security Department in Leopoldov, the authorities indicate that most prisoners held in this Department do not require psychiatric care as they are affected by personality disorders.

The Committee also visited the psychiatric ward at Trenčin Prison Hospital. The report highlights that patients placed in the protective psychiatric treatment unit and those receiving protective treatment for substance abuse benefit from a full programme of activities, whereas the regime offered to patients in the unit for acute psychiatric conditions is poor. In their response, the authorities state that prisoners of different guarding levels and categories are treated at the unit for acute psychiatric conditions, and that the daily activities offered to such prisoners depend on their physical state and the medication that has been administered to them. For this reason, it is not possible to organise group activities."

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **19 May 2006**, ratified on **27 March 2007**, entered into force on **1 February 2008**

Extract of the website of the GRETA:

"1st Evaluation Round: GRETA visits the Slovak Republic

A delegation of the Group of Experts on Action against Trafficking in Human Beings (GRETA) carried out a country visit to the Slovak Republic from 9 to 12 November 2010, in order to prepare its first monitoring report on the fight against human trafficking in the Slovak Republic.

This was the second country visit carried out in the context of the first round of evaluation of implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. This round was launched in February 2010 when GRETA addressed a questionnaire to the first 10 Parties to the Convention: Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, Moldova, Romania and the Slovak Republic.

During the visit, the GRETA delegation held meetings in Bratislava with representatives of relevant ministries and other public bodies. It also held meetings with members of non-governmental organisations active in combating trafficking in human beings and human rights protection, as well as with other members of civil society dealing with issues of concern to GRETA.

The visit was carried out by Ms Gulnara SHAHINIAN, Second Vice-President of GRETA and Mr Davor DERENCINOVIC, member of GRETA, who were accompanied by Mr David DOLIDZE of the Anti-Trafficking Secretariat.

On the basis of the information gathered during the visit and the reply to the questionnaire, provided by the Slovak Government, GRETA will prepare a draft report containing its analysis of the implementation of the Convention by the Slovak Republic, as well as suggestions concerning the way in which the Slovak Republic may deal with the problems which have been identified. This draft report shall be transmitted to the Slovak Government for comments before GRETA prepares its final report, which will be made public along with any final comments by the Government."

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **14 September 1995**, entered into force on **1 February 1998**

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **June 2006** [ResCMN(2006)8]

Last state report (3rd cycle) received in **July 2009** [ACFC/SR/III(2009)008]

Last opinion (3rd cycle) by the Advisory Committee adopted in **May 2010** [ACFC/OP/III(2010)004]

Press release of 20 January 2011:

"Protection of national minorities: Council of Europe monitoring body publishes report on the Slovak Republic

The Slovak Republic should adopt more comprehensive legislation on minority languages in order to ensure an appropriate balance between the promotion of the State language and the right to use minority languages. Further action is needed to prevent discrimination, in particular in relation to Roma and efforts must be made to eliminate discrimination and segregation of Roma in the field of education. These are the key recommendations of the third Opinion on the Slovak Republic of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, which was published today, together with the government's Comments.

In its Opinion the Advisory Committee concludes that:

In recent years the Slovak authorities have developed further legislation for protecting national minorities, for example by amending the Anti-Discrimination Law, which provides a clear legal basis for protection against discrimination, including the possibility to devise positive measures. Support has been allocated to national minority organisations for preserving and developing their cultures, although the procedure for distributing funds needs to be improved.

Negative attitudes against persons belonging to certain groups such as the Roma continue to be reported. Resolute measures are needed to fight intolerance based on ethnic origin, such as effective sanctioning of discrimination, the application of positive measures and awareness-raising of discrimination-related issues in society.

Many Roma face discrimination in employment, access to housing and healthcare. A considerable number of Roma children are still placed in 'special' schools for pupils with learning difficulties. Authorities should ensure that appropriate measures are adopted to help integrate Roma children into mainstream education.

The State Language Law, which has been amended to reinforce the use of Slovak should strike the adequate balance between the legitimate promotion of the state language and the right to use minority languages in private and public life. The Committee is concerned about some aspects of the law, such as the imposition of fines in case of violations of the law, which are not in line with the Framework Convention.

There have been improvements in the field of minority language education, in particular the creation of textbooks in minority languages, the training of teachers and increased financial allocations to minority schools. However, there seems to be a decreasing interest in minority language learning amongst the Bulgarian, Croat, German, Ruthenian, Polish and Ukrainian minorities. Efforts should be made to provide children belonging to minorities in schools with instruction in Slovak with opportunities to learn their minority language.

Persons belonging to national minorities are generally well-represented in elected bodies, especially at the local level. However the participation of the Roma in Parliament is very low. The employment of persons belonging to national minorities in the public administration and law-enforcement agencies is limited and should be increased.

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In the Slovak Republic, 12 groups are represented in the Consultative Council and are officially recognised as national minorities."

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **20 February 2001**, ratified on **5 September 2001**, entered into force on **1 January 2002**

Last periodic state report (2nd cycle) submitted in **July 2008** [MIN-LANG/PR(2008)5]

Last assessment report (2nd cycle) of the Committee of Experts adopted in **April 2009** [ECRML(2009)8]

Last recommendation (2nd cycle) of the CM adopted in **November 2009** [RecChL(2009)6]

Next periodic state report (3rd cycle) due in **July 2011**

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 18 November 2009:

"Council of Europe publishes report on minority languages in Slovakia

The Council of Europe Committee of Ministers has today made public the second report on the situation of minority languages in Slovakia. This report has been drawn up by a committee of independent experts which monitors the application of the European Charter for Regional or Minority Languages.

On the basis of the report, the Committee of Ministers recommends the Slovak authorities to provide for adequate teaching of all minority languages at all appropriate levels of school education. Teacher-training should also be improved.

Slovakia is further encouraged to improve public television and radio broadcasting in all minority languages and make it easier for private television and radio to broadcast in minority languages. The creation of newspapers in all minority languages should also be encouraged.

Furthermore, the Committee of Ministers calls on Slovakia to continue measures to abolish the practice of unjustified enrolment of Roma children in schools for children with special needs.

The report was adopted by the Committee of Experts of the Charter in April 2009, and therefore does not contain any assessment of the amendments of the State Language Act of Slovakia of 30 June 2009.

The regional or minority languages protected under the Charter in Slovakia are Hungarian, German, Ruthenian, Ukrainian, Romani, Czech, Bulgarian, Croatian and Polish"

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the fourth report on the Slovak Republic was adopted in December 2008 and made public in **May 2009**.

Extract of press release of 26 May 2009:

"The Council of Europe Commission against Racism and Intolerance publishes new reports on Belgium, Germany and Slovakia

The Council of Europe's European Commission against Racism and Intolerance (ECRI) released today three new reports examining racism, xenophobia, antisemitism and intolerance in Belgium, Germany and Slovakia. The ECRI reports note positive developments in all three of these Council of Europe member states, but also detail continuing grounds for concern, said the Chair of ECRI, Eva Smith Asmussen. […]

In Slovakia, a new Criminal Code containing several provisions on racially-motivated crimes was adopted in 2006 and the Anti-Discrimination Act, which prohibits discrimination based on, among others, race, religion, national or ethnic origin, colour and language, was passed in 2004. However, the situation of the Roma remains worrying in areas such as education, housing, employment and health and instances of police brutality against members of this minority still occur. A rise in racist political discourse by some politicians targeting primarily Hungarians, as well as Roma and Jewish people, has been noted. The integration of refugees is still an issue that needs to be tackled, namely through the integration strategy devised by the Slovak authorities.

These new reports form part of a fourth monitoring cycle of the Council of Europe member states' laws, policies and practices aimed at combating racism. ECRI's country specific reports are available in English, French and the national language of the country concerned at www.coe.int/ecri. They cover all member states on an equal footing, from the perspective of protecting human rights."

H. SOCIAL RIGHTS

European Social Charter of 1961(ETS No. 35)signed on **27 May 1992**, ratified on **22 June 1998**, entered into force on **21 July 1998**

European Social Charter (revised) (ETS No. 163) signed on 18 November 1999, ratified on 23 April 2009, entered into force on 1 June 2009

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) signed on 18 November 1999 but not ratified

Extract of the website of the European Social Charter (situation as of December 2010):

"Reports*

Between 2001 and 2010, Slovak Republic submitted 7 reports on the application of the Social Charter and 1 report on the application of the Revised Social Charter.

The 7th report, on the provisions of the Charter accepted by Slovakia related to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6 of the Charter and Article 2 of the 1988 Additional Protocol) was submitted on 30 October /2009. Conclusions respective to these provisions were published in December 2010.

The 1st report by Slovak Republic on the application of the Revised Charter, submitted on 10 November 2010, concerns the provisions accepted by Slovak Republic relating to Thematic Group 4 "Labour rights" i.e.:

– the right of children and young persons to protection (Article 7),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19§§1; 4, 5, 6, 7, 9 and 11),

– the right of workers with family responsibilities to equal opportunity and treatment (Article 27§§1 and 2),

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once very four years.

Situation of the Slovak Republic with respect to the application of the Charter

Examples of progress achieved in the application of social rights under the Social Charter[27]

Right to safe and healthy working conditions

► Several laws and regulations adopted on minimum safety and health requirements at work which cover most of the risks concerning this matter, i.e. among others, those related to health protection at work with ionising radiations, carcinogens, biological and chemical agents, asbestos, noise and vibrations, as well as minimum safety and health requirements for the use of work equipment and for the manual handling of loads at work.

Vocational continuing training

► Measures taken by employers to deal with the decline in skilled labour in the face of technological and/or economic progress (Act no. 386/1997 on the system of further training).

► Equal treatment in relation to vocational continuing training is guaranteed to nationals of others states party to the Charter and the Revised Charter who reside legally and work regularly in Slovakia (Act no. 5/2004).

Participation of workers in the determination and improvement of the working conditions

► Trade unions and works councils are allowed to operate concurrently within an undertaking (Amendment no. 210/2003 to the Labour Code).

► Existence of legal remedies for employees' representatives (labour inspection and supervisory bodies) in the event the employer fails to eliminate shortcomings in the protection of health and safety at the workplace which the employees' representatives have pointed out (Act no. 330/1996).

Cases of non-compliance

Thematic Group 1 "Employment, training and equal opportunities"

► Article 1§1 – Right to work – Policy of full employment

The unemployment rate remains high, the long-term unemployed rate is particularly high and the measures introduced to remedy the problems are inadequate. (Conclusions XIX-1 (2008))

► Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

It has not been established that restrictions on access of nationals of States Parties to posts in the public service are not excessive. (Conclusions XIX-1 (2008))

► Article 1§3– Right to work – Free placement services

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27. "1. The [European Committee of Social Rights] … rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure" (Article 2 of the Rules of the Committee).

It has not been established that the right to free placement services is guaranteed. (Conclusions XIX-1 (2008))

► Article 10§1 – Right to vocational training – Promotion of technical and vocational training ; access to higher technical and university education

It has not been established that the right to vocational education is adequately guaranteed. (Conclusions XIX-1 (2008))

► Article 10§2 – Right to vocational training – Apprenticeship

It has not been established that the right to apprenticeship is adequately guaranteed. (Conclusions XIX-1 (2008))

► Article 10§4 – Right to vocational training – Encouragement for the full utilisation of available facilities

Equal treatment for nationals of other States Parties who are not permanent residents in Slovakia is not guaranteed with respect to financial assistance for education and training. (Conclusions XIX-1 (2008))

► Article 15§1 (and Article 1§4) – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Education and training for persons with disabilities (Right to work – Vocational guidance, training and rehabilitation)

It has not been established that mainstreaming of persons with disabilities is effectively guaranteed in education and training. (Conclusions XIX-1 (2008))

► Article 15§2 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Employment of persons with disabilities

It has not been established that persons with disabilities are guaranteed an effective equal access to employment. (Conclusions XIX-1 (2008))

► Article 18§2 – Right to engage in a gainful occupation in the territory of other States Parties – Simplifying existing formalities and reducing dues and taxes

– the formalities for the granting of temporary residence permits have not been simplified;

– there are two distinct and totally separate procedures for issuing work permits and residence permits. (Conclusions XIX-1 (2008))

Thematic Group 2 “Health, social security and social protection”

►Article 11§1 – Right to protection of health – Removal of the causes of ill health

It has not been established that the health care system is sufficiently accessible. (Conclusions XIX-2 (2009))

► Article 11§2 – Right to protection of health – Advisory and educational facilities

It has not been established that health education is incorporated into the school curriculum nor has it been established that screening for illnesses responsible for high levels of early death is practised systematically and available free of charge. (Conclusions XIX-2 (2009))

► Article 12§1 – Right to social security – Existence of a social security system

There is no evidence that the adequacy of social security benefits is secured. (Conclusions XIX-2 (2009))

► Article 12§2 – Right to social security – Maintenance of a social security system at a satisfactory level at least equal to that required for ratification of the international labour convention no. 102

It has not been established that the Slovak Republic maintains a social security system that meets the requirements of the ILO Convention No 102. (Conclusions XIX-2 (2009))

► Article 12§4 – Right to social security – Social security of persons moving between states

It has not been established that:

– equal treatment of nationals of other States Parties which are not members of the EU or Parties to EEA is guaranteed;

– the retention of accrued benefits for persons moving to a State Party which is not covered by Community regulations or not bound by an agreement with Slovak Republic is guaranteed;– the accumulation of insurance or employment periods completed in other States Parties not covered by Community regulations and not bound by abilateral agreement with Slovak Republic is guaranteed. (Conclusions XIX-2 (2009))

► Article 13§1 – Right to social security – Right for every person in need to adequate assistance

It has not been established that:

– social assistance is provided for everyone in need

– equality of treatment of foreign nationals legally resident in the Slovak Republic

is guaranteed in the matters of social assistance. (Conclusions XIX-2 (2009))

► Article 14§1 – Right to benefit from social services – Promotion or provision of social services

It has not been established that:

– remedies enabling users to assert their rights do exist;

– monitoring arrangements for guaranteeing the quality of the social services provided by the various providers do exist. (Conclusions XIX-2 (2009))

Thematic Group 3 “Labour rights”

► Article 2§1 – Right to just conditions of work – Reasonable working time

The Labour Code permits daily working time of up to 16 hours in certain types of work. (Conclusions XIX-3 (2010))

► Article 2§2 – Right to just conditions of work – Public holidays with pay

Work performed on a public holiday is not compensated at a sufficiently high level. (Conclusions XIX-3 (2010))

► Article 4§1 – Right to a fair remuneration – Decent remuneration

The minimum wage is manifestly unfair. (Conclusions XIX-3 (2010))

► Article 4§2 – Right to a fair remuneration – Increased remuneration for overtime work

Time off to compensate overtime work is not sufficiently long. (Conclusions XIX-3 (2010))

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment

The length of service of employees who work fewer than fifteen hours a week is not taken into account when calculating notice periods. (Conclusions XIX-3 (2010))

► Article 4§5 – Right to a fair remuneration – Limits to deduction from wages

Deductions from wages may deprive workers of the means of subsistence required to provide for themselves and their families. (Conclusions XIX-3 (2010))

► Article 6§2 – Right to bargain collectively – Negotiation procedures

1. It has not been established whether the development of collective bargaining is encouraged;

2.It has not been established that police officers are entitled to participate in the processes that result in the determination of the regulations applicable to them. (Conclusions XIX-3 (2010))

► Article 6§4 – Right to bargain collectively – Collective action

Restrictions on the right to strike for persons working in nuclear power stations or those employed in air traffic control go beyond those permitted by Article 31 of the Charter. (Conclusions XIX-3 (2010))

Thematic Group 4 “Children, families, migrants”

► Article 7§1 – Right of children and young persons to protection – Prohibition of employment under the age of 15

Work, which is performed on other legal basis than the labour law, is not supervised by an inspection authority. (Conclusions XVI-2 (2003))

► Article 7§2 – Right of children and young persons to protection – Higher minimum age in dangerous or unhealthy occupations

The National Labour Inspectorate does not monitor the working conditions of minor employees. (Conclusions XVI-2 (2003))

► Article 8§2 – Right of employed women to protection – Illegality of dismissal during maternity leave

The relocation of the employer as well as the transfer of all or part of its business activities can be regarded as going out of business and can justify the dismissal of the employee during the absence on maternity leave or at such time that the notice would expire during such absence. (Conclusions XVI-2 (2003))

► Article 16 – Right of the family to social, legal and economic protection

The granting of childbirth allowance and child-minding allowance is subject to an excessive length of residence requirement. (Conclusions XVIII-1 (2006))

► Article 17 – Right of mothers and children to social and economic protection

Corporal punishment of children is not prohibited. (Conclusions XVI-2 (2003))

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Slovakian Government to provide more information in the next report:

Thematic Group 1 “Employment, training and equal opportunities”

(Next report to be submitted by 31 October 2011)

► Article 9 – Conclusions XIX-1 (2008)

► Article 10§§3 and 5 – Conclusions XIX-1 (2008)

► Article 18§1 – Conclusions XIX-1 (2008)

► Article 1 of the 1988 Additional Protocol – Conclusions XIX-1 (2008)

Thematic Group 2 “Health, social security and social protection”

(Next report to be submitted by 31 October 2012)

► Article 11§3 – Conclusions XIX-2 (2009)

► Article 12§ 4 – Conclusions XIX-2 (2009)

► Article 13§3 – Conclusions XIX-2 (2009)

► Article 14§2 – Conclusions XIX-2 (2009)

► Article 4 of the 1988 Additional Protocol – Conclusions XIX-2 (2009)

Thematic Group 3 “Labour rights”

(Next report to be submitted by 31 October 2013)

► Article 2§3 – Conclusions XIX-3 (2010)

► Article 5 – Conclusions XIX-3 (2010)

► Article 6§3 – Conclusions XIX-3 (2010)

► article 3 of the 1988 Additional Protocol– Conclusions XIX-3 (2010)

Thematic Group 4 “Children, families, migrants”

(Next report to be submitted by 31 October 2010, Conclusions to be published by end of December 2011)

► Article 7§§3, 5, 7 and 10 – Conclusions XVI-2 (2003)

► Article 8§1 – Conclusions XVI-2 (2003)”

I. Parliamentary Assembly

Cf. above “III. PROTECTION OF HUMAN RIGHTS, B. EUROPEAN CONVENTION ON HUMAN RIGHTS”

11 May 2011

8. SLOVENIA

Council of Europe member state since **14 May 1993**

Number of Council of Europe Conventions ratified (as of 11 May 2011): **101** (out of 210)

Number of Council of Europe Conventions signed (as of 11 May 2011): **16**

I. PLURALISTIC DEMOCRACY[28]

A. Free and fair elections

System of government: parliamentary democracy

Last presidential elections: **2007**

Next presidential elections: **2012**

Last general elections: **2008**

Next general elections: **2012**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 11 October 1994, ratified on 15 November 1996, entered into force on 1 March 1997

Last Congress of Local and Regional Authorities monitoring report: May 2001

Press release of 12 November 2010:

“Congress monitoring mission: Municipalities of Slovenia demand the creation of regions

"It has been very interesting to hear this from all sides: Slovenian municipalities demand the creation of regional authorities in their country", said Congress Rapporteur Jos Wienen (Netherlands, EPP/CD) at the end of the monitoring mission to Slovenia, from 8 to 10 November 2010. "Until now it was impossible to reach a political consensus on the number of regions, although the regionalisation of Slovenia might make up for the fragmentation of municipalities and contribute to attracting resources for investments. I think it is necessary to solve this issue and to reach a political compromise", he added.

The delegation noted that the financing of local governments in Slovenia has been improved through continuous reforms since 2006, which enabled municipalities to perform better their main tasks. At the same time, matching the increase of municipal responsibilities with commensurate resources remained a critical point, in particular with regard to the situation of the capital city, Ljubljana.

The delegation also noted the existing problems with the Roma minority, as in many European countries, while taking note of the landmark decision by the Slovenian Constitutional Court regarding the Roma representation in municipal councils. "I was impressed by the importance given by the Constitutional Court to the European Charter of Local Self Government as far local democracy issues are concerned. The Court referred to it in more than 30 judgements", pointed out Congress Rapporteur Merita Jegeni Yildiz (Turkey, EPP/CD).

The Rapporteurs were also impressed by good practices for Roma integration in the city of Murska Sobota.”

II. RULE OF LAW

A. VENICE COMMISSION

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28. The non-governmental organisation Freedom House gives to Slovenia a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

No recent opinion concerning Slovenia

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Slovenia was **€ 88,9**;

– the **number of professional judges** in 2008 in Slovenia was **1 083**, this means 53.5 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Slovenia was **175**, this means 8.6 for 100 000 inhabitants.

C. The fight against corruption and organised crime[29]

Civil Law Convention on Corruption (ETS No. 174) signed on 29 November 2001, ratified on 17 March 2003, entered into force on 1 November 2003

Criminal Law Convention on Corruption (ETS No. 173) signed on 7 May 1999, ratified on 12 May 2000, entered into force on 1 July 2002, Additional Protocol (ETS No. 191) signed on 9 March 2004, ratified on 11 October 2004, entered into force on 1 February 2005

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Slovenia** adopted by GRECO at its 38th Plenary Meeting [Strasbourg, 9-13 June 2008, GrecoRC-II(2006)1Eaddendum]:

“Conclusion

40. In view of the above, GRECO concludes that recommendations vi and viii have been implemented satisfactorily. Recommendations ii, iv, v and vii remain partly implemented. Slovenia has taken important steps to promote institutional integrity; the monitoring and advisory role played by the Commission for the Prevention of Corruption appears to be pivotal in this respect. Likewise, noticeable progress has been made with respect to the practical application of corporate liability provisions. With respect to the outstanding recommendations, it is important to ensure that the positioning of the specialised anti-corruption unit within the Police allows a swifter investigation of corruption offences. GRECO further encourages the authorities to enhance their efforts to undertake a regular assessment of public administration, to provide more effective administrative enforcement of codes of conduct, and to adopt conflict of interest standards for all persons who carry out or have carried out functions on behalf of the public.

41. More generally, Slovenia has created an impressive infrastructure of legislative and institutional mechanisms to prevent and combat corruption. The encouraging steps undertaken in this field have repeatedly been acknowledged by GRECO and have served as an example of good practice for other countries in the area. In particular, GRECO welcomed the establishment of a specialised and independent body for the overall co-ordination of anti-corruption policy in Slovenia, i.e. the Commission for the Prevention of Corruption, in line with a recommendation made by GRECO during its First Evaluation Round. Indeed, in many instances GRECO recommended the setting-up of independent anti-corruption institutions (without pointing at one unique model) endowed with adequate attributions and resources. GRECO is of the opinion that the dismantlement of such institutions without the establishment of an alternative oversight body, which is able to operate in the same conditions of impartiality, is not the right way to demonstrate adherence to strict anti-corruption standards. For this reason, GRECO has followed with growing concern the recent developments in Slovenia and the possible dismantlement of the Commission for the Prevention of Corruption. In particular, GRECO has made it clear, inter alia, that such a move would certainly have a negative impact on the overall co-ordination of anti-corruption policy in Slovenia (Greco RC-I (2003) 1E Addendum). In the Council of Europe context, the matter was brought before the Committee of Ministers through a written question of a member of the Parliamentary Assembly.[30] This concern appears to be equally shared by other international organisations.[31]

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29. Slovenia is in 27th position with a score of 6.4 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).
30. CM/AS(2007)Quest525 final, 9 November 2007.

42. In view of the uncertainty of both the legal and institutional framework which will govern in the future the anti-corruption policy in Slovenia (a number of reforms in this area are currently the focus of much internal debate), and since full implementation of recommendations iv, v and vii is tied to the operation of the Commission for the Prevention of Corruption, the abolishment of which has been reintroduced on the Government's agenda, GRECO wishes to be kept informed of future developments and reassured that the efforts undertaken to date in the prevention and fight against corruption have not been in vain. Consequently, it requests the Slovenian authorities to provide further information on the implementation of the recommendations iv, v and vii. This information should reach GRECO by 31 December 2008.

43. Finally, GRECO invites the Slovenian authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

Extract of: **Second Evaluation Round: Second Addendum to the Compliance Report on Slovenia** adopted by GRECO at its 42nd Plenary Meeting [Strasbourg, 11-15 May 2009, GrecoRC-II(2006)1EaddendumII]:

"Conclusion

20. In addition to the conclusions contained in the Second Round Compliance Report and the Addendum to the Second Round Compliance Report on Slovenia, and in view of the above, GRECO concludes that recommendation vii has been dealt with in a satisfactory manner. Recommendations iv and v remain partly implemented. In this connection, GRECO is pleased to note that a number of measures have been taken or are being developed to promote integrity (including by better regulating incompatibilities and conflicts of interest) and to curb corruption in public administration. It is expected that additional requirements in this field will be introduced following the enactment of the draft Act on Integrity in the Public Sector, as well as of the draft Code of Conduct for Public Officials. The authorities may wish to keep GRECO informed of relevant developments.

21. The adoption of the present Second Addendum to the Compliance Report concludes the Second Evaluation Round compliance procedure concerning Slovenia.

22. Finally, GRECO invites the Slovenian authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

Press release of 13 June 2008:

"The Group of States against Corruption (GRECO) publishes its Third Round Evaluation Report on Slovenia

The Council of Europe's Group of States against Corruption (GRECO) has published today its Third Round Evaluation Report on Slovenia. The report, which was adopted on 7 December 2007, has been made public following the agreement of the authorities. It focuses on two distinct themes: criminalisation of corruption and transparency of party funding.

Regarding the criminalisation of corruption [theme I], GRECO acknowledges the efforts undertaken by the authorities – through amendments to the Criminal Code – to align Slovenian legislation with the Council of Europe Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). GRECO, however, notes that further steps are required to ensure, inter alia, that bribery for acts not falling strictly within an official's statutory duties are covered and that Slovenian courts have nationality jurisdiction over bribery and trading in influence offences committed outside Slovenia by Slovenian citizens, even in those instances where the criminal act concerned is not punishable under the law of the foreign country where the act was committed. Moreover, Slovenia should be more proactive in detecting, investigating and prosecuting corruption cases.

Concerning transparency of party funding [theme II], GRECO notes that although the Slovenian legislation is, on paper, of a good standard, in practice the picture is less convincing. Political parties and other election campaign organisers appear to be able to circumvent existing legal provisions without great difficulty and are not penalised in any way – neither by the electorate nor by the competent supervisory body. GRECO therefore concludes that the Slovenian authorities should ensure, as a matter of priority, that effective independent supervision is in place and that party and campaign finance rules are adequately enforced.

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31. The OECD Working Group on Bribery in International Business Transactions specifically signaled in its latest report on Slovenia: Phase 2 (adopted on 21 June 2007) that the priority and commitment given to fighting corruption in Slovenia was declining, when the focus should have been sharpened and the mechanisms for combating it strengthened. It further recommended the Slovenian authorities to support the Commission for the Prevention of Corruption (or any other body charged with combating foreign bribery in the future) in its efforts to curb corruption in the country (cf. pages 4, 7 and 8).

The report as a whole addresses 19 recommendations to Slovenia. GRECO will assess the implementation of these recommendations towards the end of 2009, through its specific compliance procedure."

Extract of: Third Evaluation Round: Compliance Report on Slovenia "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 46th Plenary Meeting [Strasbourg, 22-26 March 2010, GRECORC-III(2009)1E):

"Conclusions

73. In view of the above, GRECO concludes that Slovenia has implemented satisfactorily or dealt with in a satisfactory manner four of the nineteen recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendations i, ii and vi have been implemented satisfactorily. Recommendation v has been dealt with in a satisfactory manner. Recommendations iii and iv have been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations i, ii, iv, v, vi, vii, viii, ix, x, xi, xii, xiii have been partly implemented. Recommendation iii has not been implemented.

74. In particular, concerning incriminations, a reform of the Criminal Code and the Code of Criminal Procedure took place in 2008 and 2009, respectively, to better align the relevant provisions on bribery and trading in influence with the Criminal Law Convention on Corruption (ETS 173). That said, additional steps are needed to abolish the requirement of double criminality, as well as to allow for the exercise of jurisdiction over bribery and trading in influence offences committed abroad by (or involving) Slovenian public officials and members of domestic public assemblies who are not Slovenian citizens.

75. Insofar as the transparency of party funding is concerned, new draft legislative provisions are being discussed to enhance the transparency and monitoring of political financing. In particular, amendments to the Elections and Referenda Campaigns Act were prepared in November 2009; they reportedly underwent public consultation and will be submitted to the Government for further discussion. The proposed amendments include some promising measures designed to strengthen financial discipline and increase the transparency of party accounts during elections, e.g. disclosure of campaign income and expenditure in greater detail, stricter reporting requirements for campaign organisers and tougher sanctions for infringements. The revision of the Political Parties Act – another important legislative project crucial to the implementation of GRECO's recommendations – is still at its initial drafting stages; it is essential that more determined steps be taken to enhance the overall transparency of political activity, also outside campaign periods. Likewise, the jurisdiction and scope of competences of the authorities entrusted with supervisory, investigative and enforcement tasks as regards party and campaign finances need to be clarified and the responsible bodies vested with adequate resources to perform their tasks in an efficient manner.

76. In the light of what has been stated in paragraphs 73 to 75, GRECO notes that Slovenia has made tangible efforts to comply with the recommendations issued in respect of Theme I – Incriminations. Some preliminary steps have also been taken to meet the concerns raised in respect of Theme II – Transparency of Party Funding; however, much more clearly needs to be done in this area. It can be assumed that, on the basis of the information received and the plans reported, Slovenia may well be in a position to attain, in principle, an acceptable level of compliance with the pending recommendations within the next 18 months. GRECO therefore concludes that the current low level of compliance with the recommendations is not "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of GRECO's Rules of Procedure. GRECO invites the Head of the delegation of Slovenia to submit additional information regarding the implementation of recommendations iii and iv (Theme I – Incriminations) and recommendations i to xiii (Theme II – Transparency of Party Funding) by 30 September 2011 at the latest.

77. Finally, GRECO invites the authorities of Slovenia to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make the translation"

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 23 November 1993, ratified on 23 April 1998, entered into force on 1 August 1998

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 28 March 2007, ratified on 26 April 2010, entered into force on 1 August 2010

Second written progress report submitted to MONEYVAL by Slovenia as adopted by MONEYVAL at its 28th Plenary Meeting [Strasbourg, 8-12 December 2008, MONEYVAL(2008)38rev1]

Press release of 23 April 2010:

"MONEYVAL publishes report on Slovenia

The Council of Europe's MONEYVAL Committee (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) today published the Report on the Fourth Assessment Visit of Slovenia.

This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in Slovenia at the time of the 4th on-site visit (October 2009) and immediately after. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system.

The main findings of the report are:

• In terms of risk, Slovenia is a small country and is not a major international financial centre. Furthermore, the risk of the country being used as a base for terrorism or financing of terrorism is estimated as being low.

• Slovenia has introduced a number of measures in recent years to strengthen its AML/CFT regime. There is, however, a very low level of prosecutions for money laundering (ML) and of orders to confiscate assets. In the view of the evaluators this significantly undermines the effectiveness of the regime.

• The Office for Money Laundering Prevention (OMLP), the designated Financial Intelligence Unit of Slovenia, is well structured and professional. It appears to be operating effectively and to have a good working relationship with the police and other relevant state agencies.

• The core elements of Slovenia's AML/CFT regime are established in the Slovenian Criminal Code, which contains the ML and TF offenses; the Act on the Prevention of Money Laundering and Financing of Terrorism (APMLTF); and the sector-specific laws. The APMLTF was most recently amended in June 2007 and came into force in January 2008, when Slovenia transposed the third EU Money Laundering Directive, and its Implementing Directive, into national law as well as introducing the financing of terrorism into preventive legislation.

• There is now a broadly sound legal structure in place for the major preventive standards. No major deficiencies were detected in the key preventive standards. There were, however, concerns that weak supervision and lack of guidance to certain non-banking sectors could impact on the effectiveness of the AML/CFT regime.

• Slovenia has systems and procedures in place to facilitate both national and international cooperation. These systems appeared to be working well in practice although the lack of statistics in some areas meant that it was difficult to gauge effectiveness.

The report was adopted at MONEYVAL's 32nd Plenary meeting (Strasbourg 15-18 March 2010). MONEYVAL will continue to monitor implementation of the recommendations through its regular follow-up procedure. Slovenia is required to submit a follow-up report to the MONEYVAL Plenary two years after the adoption of this report.

The MONEYVAL 4th cycle of assessments is a follow-up round, in which important FATF Recommendations have been re-assessed, as well as all those for which the state concerned received non-compliant (NC) or partially compliant (PC) ratings in its 3rd round report. This report on Slovenia is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is intended to update readers on major issues in the Slovenian AML/CFT system"

III. PROTECTION OF HUMAN RIGHTS[32]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **March 2006**, following a visit to the country in **May 2005**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **28 June 1994**

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32. Slovenia is in 46th position with a score of 13.44 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

Protocol No. 6 (ETS No. 114) ratified on **28 June 1994**

Protocol No. 12 (ETS No. 177) ratified on **7 July 2010**

Protocol No. 13 (ETS No. 187) ratified on **4 December 2003**

Protocol No. 14 (CETS No. 194) ratified on **29 June 2005**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **6** concerning Slovenia: 3 judgments finding at least one violation and 3 judgments finding no violation.

Out of a total of 139,650 pending cases on 31 December 2010, **3,434** concerned Slovenia.

Resolutions adopted by the Committee of Ministers in 2010: **0**

Resolutions adopted by the Committee of Ministers in 2011 (as of 11 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **4 November 1993**, ratified on **2 February 1994**, entered into force on **1 June 1994**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed on **31 March 1994**, ratified on **16 February 1995**, entered into force on **1 March 2002**

Last country visit: **February 2006**

Publication of the last report: **February 2008**

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **3 April 2006**, ratified on **3 September 2009**, entered into force on **1 January 2010**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **25 March 1998**, entered into force on **1 July 1998**

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **June 2006** [ResCMN(2006)6]

Last state report (3rd cycle) received in **April 2010** [ACFC/SR/III(2010)007]

Last opinion (3rd cycle) by the Advisory Committee adopted in **March 2011** (not yet public)

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **3 July 1997**, ratified on **4 October 2000**, entered into force on **1 January 2001**

Last periodic state report (3rd cycle) submitted in **June 2009** [MIN-LANG/PR(2009)3]

Last assessment report (3rd cycle) of the Committee of Experts adopted in **November 2009** [ECRML(2010)5]

Last recommendation (3rd cycle) of the CM adopted in **May 2010** [RecChL(2010)5]

Next periodic state report (4th cycle) due in **June 2012**

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 27 May 2010:

“Council of Europe publishes report on minority languages in Slovenia

The Council of Europe Committee of Ministers has today made public the third report on the application of the European Charter for Regional or Minority Languages in Slovenia. The report has been drawn up by a committee of independent experts which monitors the application of the Charter.

On the basis of this report, the Council of Europe urges Slovenia to improve the possibilities to use Hungarian and Italian in the provision of public services, in economic and social activities, as well as in relations with the State administration.

The Council of Europe also calls on Slovenia to apply the Charter to German, Croatian and Serbian, in co-operation with the speakers.

Furthermore, the teaching of the Romani language and Roma culture should be developed at all appropriate stages.

In general, the Council of Europe sees a need for Slovenia to intensify measures to raise public awareness of the regional or minority languages covered by the Charter in Slovenia."

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the third report on Slovenia was adopted in June 2006 and made public in **February 2007**.

H. SOCIAL RIGHTS

European Social Charter of 1961(ETS No. 35)signed on **11 October 1997** but not ratified

European Social Charter (revised) (ETS No. 163) signed on 11 October 1997, ratified on 7 May 1999, entered into force on 1 July 1999

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) signed on 11 October 1997 but not ratified

Extract of the website of the European Social Charter (situation as of December 2010):

"Reports*

Between 2000 and 2010, Slovenia submitted 10 reports on the application of the Revised Charter.

The 9th report concerning the provisions relating to Thematic Group No. 3 "Labour rights", (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter) was submitted on 3 March 2010. Conclusions in respect of these provisions were published in December 2010.

The 10th report, submitted on 20 December 2010, concerns the accepted provisions relating to Thematic Group No. 4 "Children, families and migrants", i.e.:

– the right of children and young persons to protection (Article 7),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19),

– the right of workers with family responsibilities to equal opportunity and treatment (Article 27),

– the right to housing (Article 31).

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Situation of Slovenia with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter[33]

33. The European Committee on Social Rights rules on the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. It adopts conclusions in the framework of the reporting procedure and decisions under the collective complaints procedure (Article 2 of the Rules of the Committee)

Thematic group 1 “Employment, training and equal opportunities”

► Article 14 of the Constitution has been amended in order to guarantee equality irrespective of personal circumstances, including disability. The Principle of Equal Treatment Act guarantees equal treatment for persons with disabilities in the fields of employment, labour relations, education, etc.

► The 2003 Employment Relations Act (ERA) prohibits discrimination on the ground of disability with respect to recruitment, employment and work conditions and dismissal in both the public and private sectors.

► The Employment Act (2002) contains provisions against discrimination in employment.

► A Constitutional Court decision in February 2003 overturned the provision of the existing regulation stipulating that Slovenian nationals were favoured for receiving national grants.

►An act on rehabilitation and employment of persons with disabilities will enter into force in 2004.

Thematic group 2 “Health, social security and social protection”

► The Parental Care and Family Benefits Act entered into force on 1 January 2002. It contains provisions on maternity leave, paternal leave, childcare leave and adoption leave.

Thematic Group 3 “Labour rights”

► The Employment Relations Act (2002) guarantees for workers a reasonable period of notice for termination of employment based on two criteria: the reasons for terminating the contract and the length of service, which are in conformity with the Charter.

► The Employment Act (2003) provides for an increase in paid holidays.

Thematic Group 4 “Children, families, migrants”

► The new Aliens Act which entered into force in November 2002 abolished the housing condition for migrant workers who wished to be joined by their families.

► The new Employment Relations Act provides protection against notice of termination of contract and dismissal during worker’s pregnancy. A woman unlawfully dismissed is entitled to be reinstated.

► The Employment Act (2002) introduces the right to time off for nursing mothers.

► Family Relations Act which entered into force in January 2003 regulates protection of parents from dismissal during pregnancy or breastfeeding.

► The Parental Care and Family Benefits Act, which entered into force on 1 January 2002, abolished the condition of nationality to which the childbirth allowance was subjected.

► The Ministry of Education no longer authorises the creation in schools of special classes for Roma children. A special working group on integration strategies into the school system for Roma has been established.

Cases of non-conformity

Thematic group 1: “Employment, training and equal opportunities”

► Article 1§4 (and 10§3) – Right to work – Vocational guidance, training and rehabilitation

Nationals of other States Parties lawfully resident or regularly working in Slovenia are not granted equal treatment regarding access to continuing vocational training. (Conclusions 2008)

► Article 10§§1 and 2 – Right to vocational training – Promotion of technical and vocational training; access to higher technical and university education; – Apprenticeship

Nationals of other States Parties lawfully resident or regularly working in Slovenia are not granted equal treatment as regards access to vocational training or apprenticeships. (Conclusions 2008)

► Article 18§1– Right to engage in a gainful occupation in the territory of other States Parties – Applying existing regulations in a spirit of liberality;

It has not been established that the existing regulations are applied in a spirit of liberality. (Conclusions 2008)

► Article 18§3 – Liberalising regulations

Numerous restrictive rules relating to the employment of foreign workers have not been liberalised (Conclusions 2008)

► Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination

Women are prohibited from working in underground mines, and in principle are prohibited from night work in industry and in the construction sector. (Conclusions 2008)

Thematic group 2: “Health, social security and social protection”

► Article 3§4 – Right to safe and healthy working conditions – Enforcement of safety and health regulations

1. Manifestly high level of fatal occupational accidents. (Conclusions 2009)

► Article 3§4 – Right to safe and healthy working conditions – Occupational health services

It has not been established that there are adequate occupational health services. (Conclusions 2009)

► Article 12§1 – Right to social security – Existence of a social security system

– the rate of minimum sickness benefit is manifestly inadequate.

– the rate of minimum unemployment benefit is manifestly inadequate.

– the rate of minimum old age benefit is manifestly inadequate.

– the rate of minimum invalidity benefit is manifestly inadequate.

– the rate of minimum survivors’ benefit is manifestly inadequate. (Conclusions 2009)

► Article 12§4 – Right to social security Social security of persons moving between states

Equal treatment of nationals of other States Parties which are not covered by community regulations is not ensured in respect of several benefits (pension and disability insurance, parental allowance and partial payment for lost income) (Conclusions 2009)

► Article 23 – Right of the elderly to social protection

– the level of the minimum contributory old-age pension and the social pension for low-income elderly persons are manifestly inadequate;

– the length of residence requirement for entitlement to the social pension is excessive. (Conclusions 2009)

Thematic group 3: “Labour rights”

► Article 4§1 – Right to a fair remuneration – Decent remuneration

The minimum wage is manifestly unfair. (Conclusions 2010)

Thematic group 4: “Children, families and migrants”

► Article 7§5 – Right of children and young persons to protection – Fair pay

Apprentices do not enjoy a right to appropriate allowances. (Conclusions 2006)

► Article 7§9 – Right of children and young persons to protection – Regular medical examination

It has not been established that the right of workers aged under 18 to regular medical examinations is guaranteed. (Conclusions 2006)

► Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers

Lack of legislation prohibiting possession of child pornography. (Conclusions 2006)

► Article 16 – Right of the family to social, legal and economic protection

Equal treatment for nationals of other States Parties with respect to family benefits is not guaranteed, and there is insufficient legal protection of Roma families. (Conclusions 2006)

► Article 17§1 – Right of children and young persons to social, legal and economic protection – Assistance, education and training

– no particular legislation expressly prohibiting corporal punishment within the family.

– separate schooling facilities still exist for Roma children. (Conclusions 2005)

► Article 19§4 – Right of migrant workers and their families to protection and assistance – Equality regarding employment, right to organise and accommodation

Equal treatment regarding access to low-rent accommodation is not secured for all migrant workers who are nationals of the States Parties. (Conclusions 2006)

► Article 19§8– Right of migrant workers and their families to protection and assistance – Guarantees concerning deportation

Migrant workers can be deported if they do not have sufficient financial resources to ensure their subsistence. (Conclusions 2006)

► Article 19§10 – Right of migrant workers and their families to protection and assistance – Equal treatment for the self-employed

Self-employed migrant workers are not protected as provided under the Revised Charter. (Conclusions 2006)

► Article 31§3 – Right to housing – Affordable housing

Nationals of other Parties to the Revised Charter and to the 1961 Charter lawfully residing or working regularly in Slovenia are not entitled to equal treatment regarding eligibility for non-profit housing. (Conclusions 2005)

The Committee was unable to assess whether the following rights are respected and invited the Slovenian Government to provide for additional information in its next report on the following provisions:

Thematic group 1: “Employment, training and equal opportunities”

(Report to be submitted by 31 October 2011)

► Article 1§3 – Conclusions 2008

► Article 15§1, 2 and 3 – Conclusions 2008

Thematic group 2: “Health, social security and social protection”

(Report to be submitted by 31 October 2012)

► Article 3§§1 and 2 – Conclusions 2009

Thematic group 3: “Labour rights”

(Report to be submitted by 31 October 2013)

► Article 2§§1 and 2 – Conclusions 2010

► Article 6§2 – Conclusions 2010

Thematic group 4: “Children, families and migrants”

(Report to be submitted by 31 October 2010, Conclusions to be published by end of 2011)

► Article 8§§1, 3 and 4 – Conclusions 2005

► Article 17§2 – Conclusions 2005

► Article 19§1 and 3 – Conclusions 2006

► Article 27§1 – Conclusions 2005

► Article 31§§1 and 2 – Conclusions 2005

Collective Complaints and State of Procedure in Slovenia

Collective complaints (under examination)

None

Collective complaints (proceedings completed)

1. Complaints inadmissible or where the Committee has found no violation

None

2. Complaints where the Committee has found a violation which has been remedied

None

3. Complaints where the Committee has found a violation which has not yet been remedied

European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia (No. 53/2008)

Violation of Article 31, decision of the merits of 8 September 2009."

I. Parliamentary Assembly

No specific recent text concerning Slovenia

12 May 2011

9. SPAIN

Council of Europe member state since **24 November 1977**

Number of Council of Europe Conventions ratified (as of 12 May 2011): **121** (out of 210)

Number of Council of Europe Conventions signed (as of 12 May 2011): **9**

I. PLURALISTIC DEMOCRACY[34]

A. Free and fair elections

System of government: constitutional monarchy

Last general elections: **2008**

Next general elections: **2012**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 15 October 1985, ratified on 8 November 1988, entered into force on 1 March 1989

Last Congress of Local and Regional Authorities monitoring report: November 2002

II. RULE OF LAW

A. VENICE COMMISSION

No opinion concerning Spain

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Spain was **€ 86,3**;

34. The non-governmental organisation Freedom House gives to Spain a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

– the **number of professional judges** in 2008 in Spain was **4,836**, this means 10.7 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Spain was **2,178**, this means 4.8 for 100 000 inhabitants.

C. The fight against corruption and organised crime[35]

Civil Law Convention on Corruption (ETS No. 174) signed on 10 May 2005, ratified on 16 December 2009, entered into force on 1 April 2010

Criminal Law Convention on Corruption (ETS No. 173) signed on 10 May 2005, ratified on 28 April 2010, entered into force on 1 August 2010, Additional Protocol (ETS No. 191) signed on 27 May 2009, ratified on 17 January 2011, entered into force on 1 May 2011

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Spain** adopted by GRECO at its 44th Plenary Meeting [Strasbourg, 6-8 October 2009, GrecoRC-II(2007)10Eaddendum]:

"Conclusion

25. In addition to the conclusions contained in the Second Round Compliance Report on Spain and in view of the above, GRECO concludes that recommendation i has been dealt with in a satisfactory manner; recommendations ii, iii and v remain partly implemented. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the six

recommendations issued to Spain, half of them have been implemented or dealt with in a satisfactory manner. GRECO urges the authorities to increase the transparency and accountability of public administration, in particular, by reviewing the existing provisions on access to information and the corresponding implementation practice, as well as by assessing the

effectiveness of the criminal and disciplinary sanctions in the public service. Furthermore, GRECO hopes that the envisaged amendments to the Penal Code, providing, inter alia, for a system of liability of legal persons for acts of corruption, will be promptly adopted.

26. The adoption of this Addendum to the Compliance Report concludes the Second Evaluation Round compliance procedure concerning Spain. The authorities of Spain may, however, wish to inform GRECO of further developments with regard to the implementation of recommendations ii, iii and v.

27. Finally, GRECO invites the Spanish authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public."

Press release of 28 May 2009:

"The Council of Europe's Group of States against Corruption (GRECO) publishes its Third Round Evaluation Report on Spain

The Council of Europe's Group of States against Corruption (GRECO) publishes today its Third Round Evaluation Report on Spain focusing on two distinct themes: criminalisation of corruption and transparency of party funding.

The report as a whole addresses 15 recommendations to Spain. GRECO will assess the implementation of these recommendations in the first half of 2011, through its specific compliance procedure.

Regarding the criminalisation of corruption [theme I], despite the fact that Spain has been a member of GRECO since 1999, it has not yet ratified the Criminal Law Convention on Corruption and its Additional Protocol (the latter has been signed on 27 May 2009). GRECO identified some important shortcomings: for example, with respect to bribery in the public sector, the complex legal framework is deficient in its international dimension. Moreover, bribery in the private sector is not criminalised at all; this is an important lacuna since this form of corruption may cause significant damage to society at large given the value of the sums (and potential bribes) involved in business transactions. Finally, GRECO found some of the penal sanctions too weak in respect of bribery and trading in influence.

35. Spain is in 30th position with a score of 6.1 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

Concerning transparency of party funding [theme II], GRECO acknowledged the efforts displayed in this area through the introduction of new legislation in 2007. GRECO advised on the next steps to be taken to improve the system: for example, to grant public access to meaningful and timely information on political party accounts, including financial information on local branches and political foundations. It is also essential that the existing sanctioning system be further regulated and that the financial discipline of political parties be strengthened, in particular by reinforcing their internal audit control."

Extract of: Third Evaluation Round: Compliance Report on Spain "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 50th Plenary Meeting [Strasbourg, 28 March – 1 April 2011, GRECORC-III(2011)5E]:

"Conclusions

81. In view of the above, GRECO concludes that Spain has implemented satisfactorily or dealt with in a satisfactory manner five of the fifteen recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendations i, ii and vii have been implemented satisfactorily; recommendations viii and ix have been dealt with in a satisfactory manner. Recommendations iii, iv, v and vi have been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations iii, v and vi have been partly implemented; recommendations i, ii and iv have not been implemented.

82. Spain has introduced significant improvements concerning the criminalisation of corruption offences, as regulated by the latest amendments to the Penal Code which were introduced by Organic Law 5/2010. Moreover, Spain ratified the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191) in 2010 and 2011 respectively. Accession to these two pivotal instruments in the fight against corruption has paved the way to proceed with further adjustments in domestic legislation, including with respect to bribery of foreign officials, bribery of foreign jurors and arbitrators and jurisdiction issues. Although the current criminalisation of corruption offences in Spain largely meets the requirements of the Convention, some additional legislative adjustments will still be needed with respect to the offences of trading in influence and bribery in the private sector.

83. The progress reported with respect to transparency of party funding, is much more modest. While GRECO welcomes the attention paid by the Court of Audit to the issues raised in the Third Evaluation Report on Spain, it takes the view that more decisive action is to be taken in Spain in this area, including (but not limited to) legislative changes, to effectively increase transparency of party and campaign accounts, and thereby decrease possibilities for corruption in a sector which is identified as particularly prone to malpractice. Such changes must touch upon those areas where GRECO has identified clear challenges including the regulation of loans, the consolidation of party accounts (which must comprise details on the income and expenditure of local branches and connected entities), the strengthening of internal control of political parties, the development of a more comprehensive system of sanctions and the upgrading of the resources of the Court of Audit so that it is better equipped to perform its key supervisory and enforcement responsibilities.

84. In the light of what has been stated in paragraphs 81 to 83, GRECO notes that Spain has made tangible efforts to comply with the recommendations issued in respect of Theme I – Incriminations; the authorities must be commended for their action in this field. Rather limited steps have been taken to meet the concerns raised in respect of Theme II – Transparency of Party Funding; much more clearly needs to be done in this area. GRECO invites the Head of the delegation of Spain to submit additional information regarding the implementation of recommendations iii, iv, v and vi (Theme I – Incriminations) and recommendations i to vi (Theme II – Transparency of Party Funding) by 31 October 2012 at the latest.

85. GRECO invites the authorities of Spain to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 8 November 1990, ratified on 6 August 1998, entered into force on 1 December 1998

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 20 February 2009, ratified on 26 March 2010, entered into force on 1 July 2010

Spain is not a member of MONEYVAL.

III. PROTECTION OF HUMAN RIGHTS[36]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **November 2005,** following a visit to the country in **March 2005**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **4 October 1979**

Protocol No. 6 (ETS No. 114) ratified on **14 January 1985**

Protocol No. 12 (ETS No. 177) ratified on **13 February 2008**

Protocol No. 13 (ETS No. 187) ratified on **16 December 2009**

Protocol No. 14 (CETS No. 194) ratified on **15 March 2006**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **13** concerning Spain: 6 judgments finding at least one violation and 7 judgments finding no violation.

Out of a total of 139,650 pending cases on 31 December 2010, **980** concerned Spain.

Resolutions adopted by the Committee of Ministers in 2010: **2**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 12 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **26 November 1987**, ratified on **2 May 1989**, entered into force on **1 September 1989**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed on **21 February 1995**, ratified on **8 June 1995**, entered into force on **1 March 2002**

Last country visit: September-October 2007

Publication of the last report: **March 2011**

Press release of 25 March 2011:

“The Council of Europe's Committee for the Prevention of Torture (CPT) has today published the report on its fifth periodic visit to Spain, which took place in September-October 2007, together with the response of the Spanish authorities. Both documents have been made public at the request of the Spanish authorities.

In the course of the visit, the CPT’s delegation examined the treatment of persons detained by various national and (autonomous) regional law enforcement agencies. The Committee’s report refers to several allegations received of ill-treatment during the incommunicado detention of persons suspected of acts of terrorism, and makes specific recommendations aimed at preventing such ill-treatment. More generally, the CPT recommends once again that steps be taken to guarantee effective access to a lawyer as from the outset of police custody. In their response, the Spanish authorities refer to a number of measures to improve the safeguards in place concerning incommunicado detention; for example, to prohibit its application to minors, to video-record all detentions, to improve the quality of medical monitoring and to ensure that custody registers are more comprehensive. They also state their intention to speed up access to a lawyer during ordinary police custody.

The report comments on the conditions of detention in a number of prisons in the Basque country, Catalonia and the Madrid area, with a particular focus on prisoners in disciplinary segregation and in special departments. The report is especially critical of the resort to the use of mechanical restraints in prisons, notably in Catalonia. The authorities’ response states that both the central and Catalan prison administrations have adopted new instructions on the use of restraints; those from Catalonia expressly prohibit the use of the so-called “superman” restraint position referred to in the CPT’s report.

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36. Spain is in 39th position with a score of 12.25 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

The report also makes a number of recommendations aimed at improving the conditions of detention at Barajas International Airport for persons not admitted to Spanish territory, and also addresses the treatment of foreign unaccompanied minors at a facility in the Canary Islands."

Next country visit: 2011

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **9 July 2008**, ratified on **2 April 2009**, entered into force on **1 August 2009**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **1 September 1995**, entered into force on **1 February 1998**

Last opinion (2nd cycle) by the Advisory Committee adopted in **February 2007** [ACFC/OP/II(2007)001]

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **April 2008** [CM/ResCMN(2008)1]

Last state report (3rd cycle) received in **August 2010** [ACFC/SR/III(2010)011]

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **5 November 1992**, ratified on **9 April 2001**, entered into force on **1 August 2001**

Last assessment report (2nd cycle) of the Committee of Experts adopted in **April 2008** [ECRML(2008)5]

Last recommendation (2nd cycle) of the CM adopted in **December 2008** [RecChL(2008)5]

Last periodic state report (3rd cycle) submitted in **July 2010** [MIN-LANG/PR(2010)6]

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 11 December 2008:

"Council of Europe publishes report on minority languages in Spain

The Council of Europe Committee of Ministers has today made public the second report on the situation of minority languages in Spain. This report has been drawn up by a committee of independent experts which monitors the application of the European Charter for Regional or Minority Languages.

On the basis of the report, the Committee of Ministers calls on Spain to improve the use of regional or minority languages amongst judicial staff and in the State administration offices. Further efforts are needed to protect Asturian, and specific legislation should be adopted for the Aragonese and Catalan languages in Aragon. The Spanish authorities are also encouraged to clarify the status of Galician in Castile and León, Portuguese in the town of Olivenza, Berber in the Autonomous City of Melilla and Arabic in the Autonomous City of Ceuta, and take appropriate steps to protect these languages in co-operation with the speakers."

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the fourth report on Spain was adopted in December 2010 and made public in **February 2011**.

Press release of 8 February 2011:

"Council of Europe's Anti-Racism Commission publishes new report on Spain

The European Commission against Racism and Intolerance (ECRI) today published its fourth report on Spain. ECRI's Chair, Nils Muiznieks, said that, while there are positive developments, some issues of concern remain, such as the continued existence of "ghetto" schools of immigrant and Roma pupils and the absence of data on racist crime or incidents of discrimination on grounds of racial or ethnic origin.

A hate crimes and discrimination service has been established at the Barcelona Prosecution Office. Spain's specialised body to combat racism and discrimination – the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin – was set up in 2009 to collect data and assist victims.

The latest plan for Roma development targets social inclusion, non-discrimination and equal treatment. The National Roma Council was set up to advise on policies that affect this community. The Foundation Institute for Roma Culture promotes Roma identity. Successful programmes to eradicate slums and re-locate the inhabitants to standard housing are on-going around the country.

However, there are a high number of neo-Nazi movements in Spain and racism on the Internet is increasing. The authorities should monitor this situation closely and initiate criminal proceedings where necessary. As a result of a Constitutional Court decision, Holocaust denial is no longer a criminal offence.

Despite some improvements in the asylum system, EU nationals are excluded from the right to seek asylum and asylum interviews are of poor quality. Internment centres do not provide adequate access to lawyers and NGOs, and there is a serious shortage of social workers. Unaccompanied minors facing repatriation are not always afforded independent legal representation and age determination methods are outdated and unreliable.

In its report, ECRI has made a number of recommendations, three of which require priority implementation and will be revisited by ECRI in two years' time:

· Collect and publish data on acts of racism and racial discrimination;

· Include compulsory courses on human rights and non-discrimination in both initial and in-service training for law enforcement officials and judges;

· Ensure an even distribution of Spanish, immigrant and Roma pupils in schools."

H. SOCIAL RIGHTS

European Social Charter of 1961(ETS No. 35)signed on **27 April 1978**, ratified on **6 May 1980**, entered into force on **5 June 1980**

European Social Charter (revised) (ETS No. 163) signed on 23 October 2000 but not ratified

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified

Extract of the website of the European Social Charter (situation as of January 2011):

"Reports*

Between 1982 and 2010, Spain submitted 23 reports on the application of the Charter.

The 22nd report on the accepted provisions of Thematic Group 3 "Labour rights" (Articles 2, 4, 5 and 6 of the Charter and Articles 2 and 3 of the Additional Protocol of 1988) was submitted on 2 November 2009, Conclusions in respect of these provisions will be published in December 2010.

The 23rd report, submitted by Spain on 2 November 2010, concerns the accepted provisions relating to Thematic Group 4 "Children, families and migrants", i.e.

– the right of children and young persons to protection (Article 7),

– the right of employed women to protection (Article 8),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19).

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the European Social Charter and the Revised Charter have been divided into four thematic groups. /States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter will be reported on once every four years.

Situation of Spain with respect to the application of the Charter

Examples of progress achieved in the implementation of social rights under the Social Charter[37]

General

► Adoption of the Workers' Statute of 10 March 1980 in view of Spain's ratification of the European Social Charter.

Non-discrimination

► Adoption of new legislation on non-discrimination in employment and occupation (Act No. 62/2003).

Non-discrimination (Nationality)

► Reinforcement of trade unions' bargaining power by increasing the number of areas that may be covered by collective bargaining (Act No. 7/1990 on collective bargaining and participation in determining the working conditions of public servants).

► Extension of medical assistance to foreigners resident or lawfully present in Spain (Act No. 13/1996, which entered into force on 1 January 1997).

► Equal treatment in employment, including self-employment, and in access to social services and public housing for legally resident foreigners (Acts No. 4/2000 and No. 8/2000).

► Simplification of administrative procedures and laws affecting foreign nationals (Act No. 14/2003).

► Improvement of safeguards against the expulsion of foreign nationals (Act No. 4/2000).

► Foreign nationals in Spain, including ones who are there unlawfully, are entitled to emergency medical treatment in the event of serious illnesses or accidents (Institutional Act on the rights and freedoms of foreign nationals in Spain of 11 January 2000).

Non-discrimination (Disability)

► Legislation on equal opportunities for persons with disabilities (Law 45/2002).

► Act explicitly prohibiting direct and indirect discrimination in employment and occupation on the ground, inter alia, of disability (Law No. 62/2003).

Children

► Extension of the Workers' Statute (prohibition of work under 16 years of age) to cover young workers working with their families.

►Prohibition of minors' access to self-employment.

►Submission of young workers, including self-employed, to statutory working-time limitations, prohibition of night-working, and to regular medical examinations.

►Improvements of the Criminal Code as regards sexual exploitation, pornography and trafficking of children.

Education

► Adoption of Constitutional Law No. 10/2002 on the Quality of Education (Law 45/2002)

Employment

► Adoption of new Employment Law No. 56/2003 on the Quality of Education (Law 45/2002)

► Repeal of the Merchant Navy (Criminal and Disciplinary Offences) Act of 22 December 1955, merchant seamen are now liable to disciplinary sanctions (pecuniary and professional-related) only for the offences listed in Chapters III and IV of Part IV of the 1992 Act (National Ports and Merchant Navy Act No. 27/1992); repeal of Sections 29 and 49 of Act No. 209/1964, whereby flight personnel could be subjected to criminal penalties for disciplinary offences even in cases where neither the safety of the aircraft nor the lives or health of those on board was threatened (Act No. 10/1995 amending the penal code) .

► Reduction of daily working time for men and women whose children are hospitalised after birth (Law 12/2001).

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37. The European Committee on Social Rights rules on the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. It adopts conclusions in the framework of the reporting procedure and decisions under the collective complaints procedure (Article 2 of the Rules of the Committee)

► Prohibition of dismissal during pregnancy (Law No. 33/99).

► Improvement in the regulations governing night work for women in industrial jobs (Act No. 11/1994).

Social Protection

► Improvement of the social security coverage for self-employed (Royal Decree-Law 2/2003 and Royal Decree 1273/2003).

► Extension of the payment of old-age, invalidity and family benefits to all citizens concerned, in cases where they have insufficient means (Act No. 26/1990).

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

► Article 15§1 (and Article 1§4) – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Education and training for persons with disabilities

The Government has failed to demonstrate that persons with disabilities are guaranteed an effective right to mainstream education and training. (Conclusions XIX-1)

► Article 15§2 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Employment of persons with disabilities

The Government has failed to demonstrate that persons with disabilities are guaranteed effective equal access to employment. (Conclusions XIX-1)

► Article 18§3 – Right to engage in a gainful occupation in the territory of other States Parties

– Liberalising regulations

Foreign workers who have lost their job are not entitled to an extension of their work permit to give them sufficient time to seek new employment. (Conclusions XIX-1)

Thematic Group 2 “Health, social security and social protection”

► Article 3§1 – Right to safe and healthy working conditions – Safety and health regulations

1. Regulations for temporary workers are not sufficiently effective to protect this category of workers in an adequate manner.

2. Self-employed workers, who are a high proportion of the active population, are not sufficiently covered by the occupational health and safety regulations. (Conclusions XIX-2)

► Article 3§2 – Right to safe and healthy working conditions – Enforcement of safety and health regulations

The number of occupational accidents is very high. (Conclusions XIX-2)

► Article 12§1 – Right to social security – Existence of a social security system

The level of unemployment benefit for households without dependent children is manifestly inadequate. (Conclusions XIX-2)

► Article 12§4 – Right to social security – Social security of persons moving between states

The length of residence requirement for entitlement to non-contributory old-age pensions is excessive. (Conclusions XIX-2)

► Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need

Payment of minimum income benefit is subject to a residence requirement in one community and to a minimum age requirement, set at twenty-five years, in most of the autonomous communities. Furthermore, social assistance for persons living alone is manifestly inadequate in several regions, and the minimum income is not paid for as long as the need persists.(Conclusions XIX-2)

► Article 14§1 – Right to benefit from social services – Promotion or provision of social services

Conditions to be met by providers of social services are not clearly defined. (Conclusions XIX-2)

► Article 4 of the Additional Protocol – Right of the elderly to social protection

1. It has not been established that there is an adequate legal framework to combat age discrimination outside employment.

2. The level of the non-contributory old age pension is manifestly inadequate.(Conclusions XIX-2)

Thematic Group 3 “Labour rights”

► Article 2§1 – Right to just conditions of work – right to reasonable working time

1. The Workers’ Statute sets out, as a general rule, a reference period of 1 year for the calculation of average working hours.

2. The Workers’ Statute, as well as specific legislation for certain categories of workers, permit weekly working time in excess of 60 hours. (Conclusions XiX-3 (2010))

► Article 2§3 – Right to just conditions of work – annual holiday with pay

Workers who fall ill or are injured during their holiday are not entitled to take the days lost at another time. (Conclusions XiX-3 (2010))

► Article 4§1 – Right to a fair remuneration – Decent remuneration

Despite the growth of the minimum wage, it remains manifestly unfair. (Conclusions XiX-3 (2010))

►Article 4§2 – Right to a fair remuneration– Increased remuneration for overtime work

The Workers’ Statute does not guarantee workers the right to an increased remuneration or to a longer rest period in compensation for overtime. (Conclusions XiX-3 (2010))

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment

1. Workers with fixed-term contracts of less than a year whose contracts are broken before they end have no right to notice.

2. Workers with fixed-term contracts of more than one year whose contracts are broken before they end are entitled to only fifteen days’ notice. (Conclusions XiX-3 (2010))

►Article 5 – Right to organise

It has not been established that representatives of trade unions other than the most representative have access to workplaces. (Conclusions XiX-3 (2010))

► Article 6§4 – Right to bargain collectively – Collective action

The cases in which the Government may resort to compulsory arbitration go beyond the requirements of Article 31 of the Charter. (Conclusions XiX-3 (2010))

Thematic Group 4 “Children, families, migrants”

►Article 7§5 – Right of children and young persons to protection – Fair pay

Young workers’ wages are not adequate. (Conclusions XVII-2)

► Article 8§2 – Right of employed women to protection – Illegality of dismissal during maternity leave

1. Domestic workers are not entitled to the same protection against dismissal during pregnancy and maternity leave as other workers.

2. Dismissals of women during pregnancy and maternity leave are permitted in the context of collective redundancy even where the undertaking has not ceased to operate. (Conclusions XVII-2)

► Article 8§3 – Right of employed women to protection – Time off for nursing mothers

Domestic workers are not entitled to time off for nursing their children. (Conclusions XVII-2)

► Article 16 – Right of the family to social, legal and economic protection

Family benefits are inadequate even when other existing benefits and tax relief are taken into consideration. (Conclusions XVIII-1)

► Article 17 – Right of mothers and children to social and economic protection

Corporal punishment in the home is not prohibited. (Conclusions XVII-2)

► Article 19§6 and 19§10 – Right of migrant workers and their families to protection and assistance – Family reunion

There is no evidence that migrant workers' children between the age of 18 and 21 have the right to family reunion. The same applies to self-employed workers. (Conclusions XVIII-1)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Spanish Government to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

(Report to be submitted before 31 October 2011)

► Article 1§4 – Conclusions XIX-1

► Article 9 – Conclusions XIX-1

► Article 10§4 – Conclusions XIX-1

► Article 15§§1 and 2 – Conclusions XIX-1

► Article 18§§1 and 3 – Conclusions XIX-1

Thematic Group 2 "Health, social security and social protection"

(Report to be submitted before 31 October 2012)

► Article 11§§1, 2 and 3 – Conclusions XIX-2

► Article 13§§2 and 3 – Conclusions XIX-2

► Article 14§2 – Conclusions XIX-2

Thematic Group 3 "Labour rights"

(Report to be submitted before 31 October 2013)

► Article 2§2 – Conclusions XIX-3

Thematic Group 4 "Children, families, migrants"

(Report to be submitted before 31 October 2010, Conclusions to be published by the end of 2011)

► Article 7§§6, 8 and 10 – Conclusions XVII-2

► Article 8§4 – Conclusions XVII-2

► Article 19§8 – Conclusions XVIII-1"

I. Parliamentary Assembly

No specific recent text concerning Spain

12 May 2011

10. SWEDEN

Council of Europe member state since **5 May 1949**

Number of Council of Europe Conventions ratified (as of 12 May 2011): **133** (out of 210)

Number of Council of Europe Conventions signed (as of 12 May 2011): **18**

I. PLURALISTIC DEMOCRACY[38]

A. Free and fair elections

System of government: constitutional monarchy

Last general elections: **2010**

Next general elections: **2014**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 4 October 1988, ratified on 29 August 1989, entered into force on 1 December 1989

Last Congress of Local and Regional Authorities monitoring report: June 2005

II. RULE OF LAW

A. VENICE COMMISSION

No opinion concerning Sweden

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Sweden was **€ 73**;

– the **number of professional judges** in 2008 in Sweden was **1 039**, this means 11.3 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Sweden was **831**, this means 9.0 for 100 000 inhabitants.

C. The fight against corruption and organised crime[39]

Civil Law Convention on Corruption (ETS No. 174) signed on 8 June 2000, ratified on 25 June 2004, entered into force on 1 October 2004

Criminal Law Convention on Corruption (ETS No. 173) signed on 27 January 1999, ratified on 25 June 2004, entered into force on 1 October 2004, Additional Protocol (ETS No. 191) signed on 15 May 2003, ratified on 25 June 2004, entered into force on 1 February 2005

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on Sweden** adopted by GRECO at its 43rd Plenary Meeting [Strasbourg, 29 June – 2 July 2009, GrecoRC-II(2007)1Eaddendum]:

“Conclusion

12. In addition to the findings contained in the Second Round Compliance Report on Sweden and in view of the above, GRECO concludes that recommendation iv remains not implemented.

13. With the adoption of this Addendum to the Compliance Report, GRECO concludes that out of the five recommendations addressed to Sweden, in total four have been implemented satisfactorily. As regards recommendation iv, which remains not implemented, GRECO welcomes the information that action in the area of conflicting interests in respect of public officials moving to the private sector is foreseen within the government sector programme, “A public ethos” (2010 and 2011). GRECO urges the authorities to pursue this matter, with a view to introducing clear rules/guidelines for situations where civil servants move to the private sector, which appears to be particularly important in countries, like Sweden, where mobility between the public and the private sectors is encouraged.

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38. The non-governmental organisation Freedom House gives to Sweden a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

39. Sweden is in 4th position with a score of 9.2 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

14. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Sweden. The authorities of Sweden may, however, wish to inform GRECO of further developments with regard to the implementation of recommendation iv.

15. Finally, GRECO invites the Swedish authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make this report public."

Press release of 31 March 2009:

"Group of States against Corruption (GRECO) publishes report on Sweden

The Council of Europe's Group of States against Corruption (GRECO) has published today its Third Round Evaluation Report on Sweden. The report has been made public with the agreement of the country's authorities. It focuses on two distinct themes: criminalisation of corruption and transparency of party funding.

Regarding the criminalisation of corruption (Theme I, link to the report), GRECO recognises that Swedish legislation on bribery complies in a strict legal sense with the Criminal Law Convention on Corruption and its Additional Protocol; however, it notes that the rather general legislation and limited practice, makes it difficult to foresee all its consequences. Moreover, the offence trading in influence is not criminalised as such under Swedish law. GRECO stresses that current legislation, which for several years has been subject to domestic criticism, would benefit from a revision in respect of public and private sector corruption. Making trading in influence a separate offence and widening the possibilities for prosecuting corruption offences committed abroad should also be considered. Following the adoption of the Report, GRECO was informed that on 19 March 2009, the Swedish Government entrusted the former Chief Justice of the Supreme Court, Mr Bo Svensson, with the task of carrying out a study with a view to modernising current anti-corruption legislation.

Concerning transparency of party funding (Theme II, link to the report), the Swedish system falls short of the standards provided for in Recommendation Rec(2003)4 of the Committee of Ministers of the Council of Europe on common rules against corruption in the funding of political parties and electoral campaigns. Sweden's long standing tradition of self regulation in this area neither provides for a sufficiently broad and comprehensive approach, nor is there an independent monitoring mechanism in place and there are no particular sanctions or other means for the enforcement of the few principles that have been agreed upon by the political parties represented in Riksdagen. Consequently, it is difficult to assess the flow of private donations to political parties. In GRECO's view, the generally low level of transparency in political financing is difficult to understand in respect of a country, which guarantees a high degree of transparency in most areas of public life. The current system needs to be reviewed in order to comply with Council of Europe standards.

The report addresses a total of 10 recommendations to Sweden. GRECO will assess the implementation of these recommendations in the second half of 2010, through its specific compliance procedure."

Extract of: Third Evaluation Round: Compliance Report on Sweden "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 50th Plenary Meeting [Strasbourg, 28 March – 1 April 2011, GRECORC-III(2011)4E]:

"Conclusions

19. In view of the above, GRECO concludes that Sweden has implemented satisfactorily or dealt with in a satisfactory manner three of the ten recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendations i, ii and iii have been implemented satisfactorily. With respect to Theme II – Transparency of Party Funding, none of the recommendations (i– vii) has been implemented.

20. GRECO welcomes that the recommendations under Theme I have been implemented satisfactorily, although the requirements of these recommendations are not particularly demanding, given that concrete results in terms of new legislation were not expected. However, the complete lack of any concrete move under Theme II is striking; nothing substantial at all has been achieved in respect of the seven recommendations concerned. GRECO notes the strong determination on the part of the Swedish authorities to maintain the current model of self regulation as opposed to establishing statutory rules, a position that GRECO was already well aware of at the time of adoption of the Evaluation report. In this context, GRECO wishes to stress that each country is assessed on its own merits in the GRECO process and that the pertinent recommendations addressed to Sweden do not necessarily require legislative measures.

21. In view of the above and despite the progress noted in respect of Theme I GRECO concludes that the blatant non compliance with the recommendations under Theme II makes the overall response to the recommendations "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of

Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of the Swedish delegation to provide a report on the progress in implementing the pending recommendations – at the latest – by 31 October 2011, pursuant to paragraph 2(i) of that Rule.

22. GRECO invites the authorities to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 8 November 1990, ratified on 15 July 1996, entered into force on 1 November 1996

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) signed on 16 May 2005 but not ratified

Sweden is not a member of MONEYVAL.

III. PROTECTION OF HUMAN RIGHTS[40]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **May 2007,** following a visit to the country in **January 2007**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **4 February 1952**

Protocol No. 6 (ETS No. 114) ratified on **9 February 1984**

Protocol No. 12 (ETS No. 177) neither signed nor ratified

Protocol No. 13 (ETS No. 187) ratified on **22 April 2003**

Protocol No. 14 (CETS No. 194) ratified on **17 November 2005**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **6** concerning Sweden: 4 judgments finding at least one violation and 2 judgments finding no violation.

Out of a total of 139,650 pending cases on 31 December 2010, **941** concerned Sweden.

Resolutions adopted by the Committee of Ministers in 2010: **4**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 12 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **26 November 1987**, ratified on **21 June 1988**, entered into force on **1 February 1989**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed and ratified on **7 March 1994**, entered into force on **1 March 2002**

Last country visit: **June 2009**

Publication of the last report: **December 2009**

Press release of 11 December 2009:

"The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has published today the report on its fourth periodic visit to Sweden, which took place in June 2009. The report has been made public at the request of the Swedish Government.

40. Sweden shares the 1st position with a score of 0.00 with Finland, Iceland, Norway, Netherlands and Switzerland in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Eritrea is on the 178th and last position with a score of 105.00).

The overwhelming majority of the persons met by the CPT's delegation during the 2009 visit who were, or had recently been, detained by the police, indicated that they had been correctly treated. Nevertheless, the delegation heard a few allegations of physical ill-treatment by police officers. The report pays attention to the procedural safeguards against ill-treatment and concludes that further action is required in order to bring the law and practice in this area into line with the Committee's standards. The CPT has also invited the Swedish authorities to further develop the system of investigating complaints of police ill-treatment, with a view to ensuring that it is independent, impartial and effective.

In the report, the CPT once again expresses concern about the procedure for the application of restrictions to remand prisoners and the impact of such measures on their mental health. At the time of the visit to Gothenburg Remand Prison, restrictions were being applied to 46% of the prisoners, some of them having been subject to long periods of isolation (up to 18 months). The overwhelming majority of the prisoners met had been given no explanation of the reasons for the restrictions imposed on them. The CPT has made a number of recommendations aimed at ensuring that the imposition of restrictions on remand prisoners is an exceptional measure rather than the rule.

The situation of prisoners held in high-security units and segregated for administrative reasons was another focal point of the visit. The report stresses that a move towards a more intensive security provision in prisons – unless it is justified on the basis of an objective, case-by-case assessment – can render the complex task of safely managing prisons more rather than less difficult, and would be corrosive rather than protective of human rights. Further, the CPT has recommended that the Swedish authorities establish a clear distinction between segregation for administrative reasons and segregation on disciplinary grounds, and review the regime for prisoners placed in administrative segregation.

Material conditions in the prisons visited were generally of a good standard, and genuine efforts were being made at Hall and Kumla Prisons to engage prisoners in a range of purposeful activities. However, the regime for inmates subject to restrictions remained impoverished.

The continuing practice of holding immigration detainees in prisons is another issue of concern for the CPT. The Committee has recommended that urgent steps be taken to ensure that persons detained under aliens legislation are not held on prison premises. As regards the two Migration Board centres visited, in Märsta and Gävle, the report gives an overall positive assessment of the situation there. However, the CPT has made a number of recommendations designed to improve the provision of health care to immigration detainees.

At the two psychiatric establishment visited – the Department for Forensic Psychiatric Assessment in Huddinge and the Psychiatric Clinic South-West in Huddinge – the atmosphere was relaxed and material conditions were of a very high standard. However, at the Psychiatric Clinic, there was a lack of staff in charge of rehabilitative and occupational activities and, as a result, treatment relied exclusively on pharmacotherapy.

The report draws attention to allegations received at the Fagareds Home for Young Persons of excessive use of force by staff to control violent and/or recalcitrant residents. Further, the CPT has recommended that a system for the systematic recording of episodes of segregation be set up at the Fagareds Home, as well as in all other institutions for young persons in Sweden.

The Swedish Government is currently preparing its response to the issues raised by the Committee."

Response of the Swedish Government published in July 2010

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **16 May 2005**, ratified on **31 May 2010**, entered into force on **1 September 2010**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **9 February 2000**, entered into force on **1 June 2000**

Last state report (2nd cycle) received in **July 2006** [ACFC/SR/II(2006)005]

Last opinion (2nd cycle) by the Advisory Committee adopted in **November 2007** [ACFC/OP/II(2007)006]

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **June 2008** [CM/ResCMN(2008)4]

Next state report (3rd cycle) expected for **June 2011**

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed and ratified on **9 February 2000**, entered into force on **1 June 2000**

Last assessment report (3rd cycle) of the Committee of Experts adopted in **November 2008** [ECRML(2009)3]

Last recommendation (3rd cycle) of the CM adopted in **May 2009** [RecChL(2009)3]

Last periodic state report (4th cycle) submitted in **October 2010** [no reference]

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 6 May 2009:

'Council of Europe publishes report on minority languages in Sweden

The Council of Europe Committee of Ministers has today made public the third report on the situation of minority languages in Sweden. This report has been drawn up by a committee of independent experts which monitors the application of the European Charter for Regional or Minority Languages.

On the basis of the report, the Committee of Ministers calls on Sweden to strengthen education in regional or minority languages inter alia by, where appropriate, establishing bilingual education as well as providing for university education in Sami, Finnish and Meänkieli.

The Swedish authorities are also encouraged to take urgent measures to maintain the South Sami language."

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the third report on Sweden was adopted in December 2004 and made public in **June 2005**.

H. SOCIAL RIGHTS

European Social Charter of 1961 (ETS No. 35) signed on 18 October 1961, ratified on 17 December 1962, entered into force on 26 February 1965

European Social Charter (revised) (ETS No. 163) signed on 3 May 1996, ratified on 29 May 1998, entered into force on 1 July 1999

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) signed on 9 November 1995, ratified on 29 May 1998, entered into force on 1 July 1998

Extract of the website of the European Social Charter (situation as of December 2010):

"Reports*

Between 1964 and 2000, Sweden submitted 20 reports on the application of the Charter. Between 2001 and 2010 it submitted 10 reports on the Revised Charter.

The 9th report on the accepted provisions related to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter). It was submitted on 02/02/2010. Conclusions in respect of these provisions were published in December 2010.

The 10th report, submitted on 1 December 2010 covers the provisions accepted by Sweden relating to Thematic Group 4 "Children, families and migrants":

– Right of children and young persons to protection (Article 7§§1, 2, 3, 4, 7, 8, 9 and 10)

– Right of employed women to protection (Article 8§§1 and 3)

– Right of the family to social, legal and economic protection (Article 16)

– Right of mothers and children to social and economic protection (Article 17)

– Right of migrant workers and their families to protection and assistance (Article 19)

– Right of workers with family responsibilities to equal opportunities and treatment (Article 27)

– Right to housing (Article 31).

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Situation of Sweden with respect to application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter[41]

Thematic Group 1 “Employment, training and equal opportunities”

►Entry into force in 2006 of the Children and School Students (Prohibition of Discrimination and Other Degrading Treatment) Act (2006:67). It, inter alia, prohibits discrimination of children and pupils on the basis of disability in the field of education.

► Under legislation adopted in 2005, foreign students are now entitled to work in Sweden without obtaining a work permit for as long as their residence permit is valid.

► Adoption of the Act of 7 April 1994 against ethnic discrimination, including in employment

► Adoption of Act No. 433 of 1991 on equal opportunities

Thematic Group 2 “Health, social security and social protection”

► In 2001,legislation was enacted which makes health education a school subject in its own right

► Entry into force on 1 January 2001 of the new Social Security Act (Socialförsäkringslagen No. 1999/799) which contains provisions concerning work-related benefits which are no longer related to residence in Sweden; and all direct references to nationality have been abolished

►Abolition of the provision of the legislation governing seafarers which provided that seamen could be bound by coercive measures to remain at their post (Act No. 282 of 18 May 1973 on the Merchant Navy)

Thematic Group 3 “Labour rights”

►Recourse to the closed shop provisions has been made more restrictive (Act of 10 June 1976 on participation in decisions in employment)

Thematic Group 4 “Children, families, migrants”

► The Act on the working environment has been extended to cover children under 18 who do not receive any income, including children related to their employer (1990) and those who work in their employer’s home (1996)

► Abolition of the requirement for employers to pay for language courses for their migrant workers (Repeal in 1986 of Act No. 650 of 1972)

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

► Article 10§5 – Right to vocational training – Full use of facilities available

Foreign students are subject to a length of residence requirement for entitlement to financial assistance for training. (Conclusions 2008)

► Article 18§3 – Right to engage in a gainful occupation in the territory of other States Parties – Liberalising regulations

1. Rules governing the access to the employment market for nationals of States Parties to the Revised Charter or to the 1961 Charter are too restrictive;

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41. "1. The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure" (Article 2 of the Rules of the Committee).

2. Residence permit extensions for foreign workers who have lost their job in order to provide sufficient time for a new job to be found are not granted. (Conclusions 2008)

►Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination

Employment insurance legislation involves indirect discrimination against women working part-time. (Conclusions 2008)

Thematic Group 2 “Health, social security and social protection”

►Article 12§1 – Right to social security – Existence of a social security system

The minimum level of the basic unemployment insurance benefit is manifestly inadequate. (Conclusions 2009)

►Article 23 – Right of the elderly to social protection

The scope of the legal framework to combat age discrimination outside employment is not sufficiently wide. (Conclusions 2009)

Thematic Group 3 “Labour rights”

►Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment

Certain workers under 30 with five or more years’ service are granted only one month’s notice of termination of employment. (Conclusions 2010)

Thematic Group 4 “Children, families, migrants”

►Article 7§3 – Right of children and young persons to protection – Prohibition of employment of children subject to compulsory education

The mandatory rest period during school holidays for children still subject to compulsory education is not sufficient to ensure that they benefit from such education. (Conclusions 2006)

►Article 7§9 – Right of children and young persons to protection – Regular medical examination

The legislation does not guarantee regular medical examination for young workers aged under 18 in prescribed occupations. (Conclusions 2006)

►Article 8§1 – Maternity leave – Right of employed women to protection

Swedish legislation does not provide for a period of at least six weeks compulsory postnatal leave. (Conclusions 2005)

►Article 19§§8 and 10 – Right of migrant workers and their families to protection and assistance – Equal treatment for the self-employed; – Guarantees concerning deportation

A migrant worker expelled on grounds of national security may not appeal to an independent body.[42] This also applies to self-employed workers. (Conclusions 2006)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Swedish Government to provide more information in the next report:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2011)

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Thematic Group 2 “Health, social security and social protection”

(Report to be submitted before 31 October 2012)

► Article 12§3 – Conclusions 2009

► Article 13§3 – Conclusions 2009

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42. RecChS(95)10 adopted on 22 May 1995 by the Committee of Ministers (renewed on 14 December 1995).

► Article 14§1 – Conclusions 2009

Thematic Group 3 “Labour rights”

(Report to be submitted before 31 October 2013)

► Article 5 – Conclusions 2010

► Article 29 – Conclusions 2010

Thematic Group 4 “Children, families, migrants”

(Report to be submitted before 31 October 2010 and conclusions to be published before the end of 2011)

► Article 7§2 – Conclusions 2006

► Article 31§2 – Conclusions 2005

► Article 31§3 – Conclusions 2005

Collective Complaints and State of Procedure in Sweden

Collective complaints (under examination)

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Collective complaints (proceeding completed)

1. Complaints inadmissible or where the Committee has found no violation

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2. Complaints where the Committee has found a violation which has been remedied

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3. Complaints where the Committee has found a violation which has not yet been remedied

Confederation of Swedish Enterprises v. Sweden (No 12/2002)

Violation of Article 5 (right to organise), decision on the merits of 15 May 2003.”

I. Parliamentary Assembly

No specific recent text concerning Sweden

17 May 2011

11. SWITZERLAND

Council of Europe member state since **6 May 1963**

Number of Council of Europe Conventions ratified (as of 17 May 2011): **109** (out of 210)

Number of Council of Europe Conventions signed (as of 17 May 2011): **15**

I. PLURALISTIC DEMOCRACY[43]

A. Free and fair elections

System of government: parliamentary democracy

Last presidential elections: **2011**

Next presidential elections: **2012**

Last general elections: **2007**

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43. The non-governmental organisation Freedom House gives to Switzerland a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

Next general elections: **2011**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 21 January 2004, ratified on 17 February 2005, entered into force on 1 June 2005

Last **Congress of Local and Regional Authorities** monitoring report: March 2010 [CPR(18)2] and **Recommendation 285 (2010)** on Regional democracy in Switzerland adopted on 19 March 2010

Press release of 18 March 2010:

"Council of Europe Congress: Regional democracy in Switzerland "dynamic, progressive and efficient", but structured municipal reform needed

Regional democracy in Switzerland was the topic for debate in the Chamber of Regions at the 18th Plenary Session of the Congress of Local and Regional Authorities in Strasbourg today.

The report presented by Marjan Haak-Griffioen, Netherlands (NR), was based on the results of the Congress' monitoring mission in May 2009 and concerned the structure and functioning of regional (cantonal) self-government in Switzerland, as well as recent reforms and the conformity of cantons with European standards.

The Rapporteur drew attention to the process of financial transfers which has allowed for a fairer and more manageable system so that Swiss cantons can "enjoy broad fiscal autonomy".

Recommendations were brought forward as regards structural reform at local level such as establishing a model for municipal structures, in addition to undertaking a review of intercantonal agreements.

However, "regional democracy in Switzerland is dynamic and progressive based on a highly developed and efficient system, which allows this 'country of differences' to live in harmony," concluded Marjan Haak-Griffioen."

II. RULE OF LAW

A. VENICE COMMISSION

No recent opinion concerning Switzerland

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 in Switzerland was **€ 140,5**;

– the **number of professional judges** in 2008 in Switzerland was **1 089**, this means 14.1 for 100 000 inhabitants;

– the **number of public prosecutors** in 2008 in Switzerland was **426**, this means 5.5 for 100 000 inhabitants.

C. The fight against corruption and organised crime[44]

Civil Law Convention on Corruption (ETS No. 174)neither signed nor ratified

Criminal Law Convention on Corruption (ETS No. 173) signed on 26 February 2001, ratified on 31 March 2006, entered into force on 1 July 2006, Additional Protocol (ETS No. 191) signed on 3 June 2004, ratified on 31 March 2006, entered into force on 1 July 2006

Press release of 2 June 2008:

"The Group of States against Corruption (GRECO) publishes its report on Switzerland

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44. Switzerland is in 8th position with a score of 8.7 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

The Council of Europe's Group of States against Corruption (GRECO) has published today its Joint First and Second Round Evaluation Report on Switzerland. The report is made public with the agreement of the country's authorities.

The major efforts made by Switzerland since 2000 must be continued in order to increase its ability to prevent, detect and punish corruption in its various domestic forms, for example in connection with public procurement and tendering, and the issuing of permits, authorisations and licences, which are among the sectors at risk.

The country's highly decentralised structure requires a strengthening of dialogue between institutions in order to determine – in the light of research – the challenges to be faced, the resources available and the objectives to be attained in the area of anti-corruption. The GET has observed that the status and independence of the federal prosecution service are still a subject of debate, sometimes quite public. The judicial authorities – which generally have the necessary resources – would also benefit from more training on the multifaceted nature and technical aspects of corruption inquiries. The measures available to combat the proceeds of corruption are generally satisfactory. Similarly, the basic machinery is in place for preventing corruption in government. Nevertheless, further efforts are needed to improve transparency and access to information, strengthen financial audits and other forms of scrutiny at local level, develop training on ethics and establish clearer rules on conflicts of interest and ancillary activities of public officials. At federal level, general legislation on officials' duty to report offences and offering them protection against any reprisals would help to combat corruption. Finally, Switzerland introduced corporate criminal liability, including for corruption, in 2003. This is a positive reform; a number of steps still need to be taken to facilitate its application, such as familiarising practitioners with the new rules and establishing a system of criminal records for legal persons that have been convicted.

GRECO has issued 13 recommendations, in total, to Switzerland in the above-mentioned areas. Measures taken to implement these recommendations will be addressed by GRECO in the context of a specific compliance procedure in the second half of 2009."

Extract of: **Joint First and Second Evaluation Rounds: Compliance Report on Switzerland** adopted by GRECO at its 46th Plenary Meeting [Strasbourg, 22-26 March 2010, GrecoRC-I/II(2009)2E]:

"Conclusions

81. In view of the above, GRECO concludes that Switzerland has satisfactorily implemented almost all of the recommendations contained in the Joint First and Second Round Evaluation Report. Recommendations i to iii and v to xiii have been implemented satisfactorily. Recommendation iv has been partly implemented.

82. GRECO notes with great satisfaction the exemplary efforts accomplished by Switzerland in order to rapidly draw all the conclusions from the first evaluation report addressed to the country which was adopted in June 2008. It welcomes the fact that almost all areas covered by the recommendations to Switzerland have received a considerable amount of attention and this has been reflected in significant progress in fields such as the anti-corruption rules applicable to public officials and those relating to transparency and supervision of the functioning of government. In many cases, the invitation to cantons to contribute to the implementation of the recommendations at their level has again had significant effects. Major efforts have been made to improve awareness of and training in specific aspects of preventing and combating corruption. The recent adoption of the Law on the organisation of the federal criminal authorities (LOAP) has reinforced the country's anti-corruption tools in various areas; for instance, it has clarified the supervision of the Confederation's public prosecutor and introduced a legal framework on the protection of whistleblowers. Moreover, auditors are more closely associated with those efforts and may, at present, report – under certain circumstances – criminal acts to the prosecuting authorities. Nevertheless, GRECO recalls that, in its view, private sector corruption is no less serious than public sector corruption. Thus, it wishes to encourage the Swiss authorities to resume and complete its consideration of the applicability of special investigation techniques in relation to private corruption (subject-matter of the single outstanding recommendation). It also expresses the hope that this form of corruption will soon, in serious cases, become a predicate offence for money laundering.

83. GRECO therefore invites the Head of the Swiss Delegation to submit further information on the implementation of recommendation iv by 30 September 2011 at the latest.

84. Finally, GRECO invites the Swiss authorities to authorise publication of this report as soon as possible, translate it into the country's other official languages and publish these translations."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 23 August 1991, ratified on 11 May 1993, entered into force on 1 September 1993

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) neither signed nor ratified

Switzerland is not a member of MONEYVAL.

III. PROTECTION OF HUMAN RIGHTS[45]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last report: **June 2005,** following a visit to the country in **November-December 2004**

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **28 November 1974**

Protocol No. 6 (ETS No. 114) ratified on **13 October 1987**

Protocol No. 12 (ETS No. 177) neither signed nor ratified

Protocol No. 13 (ETS No. 187) ratified on **3 May 2002**

Protocol No. 14 (CETS No. 194) ratified on **25 April 2006**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **11** concerning Switzerland: 8 judgments finding at least one violation and 3 judgments finding no violation.

Out of a total of 139,650 pending cases on 31 December 2010, **837** concerned Switzerland.

Resolutions adopted by the Committee of Ministers in 2010: **2**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 17 May 2011): **0**

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **26 November 1987**, ratified on **7 October 1988**, entered into force on **1 February 1989**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed and ratified on **9 March 1994**, entered into force on **1 March 2002**

Last country visit: September-October 2007

Publication of the last report: **November 2008** (available in French only)

Press release of 13 November 2008:

“At the request of the Swiss authorities, the Council of Europe's Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) has published today the report on its fifth visit to Switzerland, carried out in September/October 2007, together with the response of the Swiss Government.

During the 2007 visit, the CPT followed up a certain number of issues examined during previous visits, in particular the fundamental safeguards against ill-treatment offered to persons in police custody and the situation of persons deprived of their liberty under aliens legislation. Regarding prisons, the CPT paid particular attention to the conditions of detention of persons against whom a compulsory placement measure or institutional therapeutic measures have been ordered, as well as to conditions in the security units. It also examined the situation of juveniles and young adults in education centres.

In their response to the visit report, the Swiss authorities provide information on the measures being taken to implement the CPT's recommendations.”

Next country visit: 2011

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

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45. Switzerland shares the 1st position with a score of 0.00 with Finland, Iceland, Norway, Netherlands and Sweden in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Eritrea is on the 178th and last position with a score of 105.00).

Convention (CETS No. 197) signed on **8 September 2008** but not ratified

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **21 October 1998** entered into force on **1 February 1999**

Last state report (2nd cycle) received in **January 2007** [ACFC/SR/II(2007)002]

Last opinion (2nd cycle) by the Advisory Committee adopted in **February 2008** [ACFC/OP/II(2008)002]

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **November 2008** [CM/ResCMN(2008)10]

Next state report (3rd cycle) expected for **February 2010**

Press release of 19 November 2008:

“Switzerland: Adoption of Committee of Ministers' recommendations on minority protection

Resolution

The Committee of Ministers has just adopted a resolution on the protection of national minorities in Switzerland. The resolution contains conclusions and recommendations, highlighting positive developments but also a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

Extract from the resolution

"Switzerland has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first opinion of the Advisory Committee in February 2003 and the Committee of Ministers’ resolution in December 2003. The constitutional and legal framework has been complemented in a number of respects both at the federal and cantonal levels and this has, inter alia, resulted in significant reinforcement of the protection offered to the linguistic minorities. For example, promising measures to support national languages are expected to be developed and supported by the new Federal Law on National Languages and Mutual Understanding between Linguistic Communities." [more]

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

"– take measures to strengthen existing institutions promoting human rights and the fight against discrimination;

– make particular efforts to ensure the full implementation of the new federal legislation on languages, including to promote more decisively multilingualism, mutual understanding and exchanges between linguistic communities;

– pursue efforts to promote the official use of the Romanche and Italian languages at the municipal and district levels in the canton of Graubünden by ensuring the swift implementation of the new cantonal Law on Languages;

– take further steps in the canton of Graubünden to encourage wider written and oral use of Italian and Romanche by the general public as well as within the administration and the judiciary;

– pursue the harmonisation process of language teaching requirements in compulsory education and consider complementing the existing offer of optional Italian-language courses outside the areas where this language is traditionally spoken on the basis of existing needs;

– ease and accelerate the planning and creation of transit sites and stopping places for Travellers through appropriate measures. Develop stronger financial and other incentives to promote action by the cantons and pursue further efforts to create stopping places and transit sites, including the reassignment of military sites. Develop stronger inter-cantonal co-operation from planning to operation of stopping places and transit sites;

– pursue efforts to support the language and culture of Travellers through various educational projects carried out in close co-operation with those concerned and to facilitate regular school attendance of children practising an itinerant way of life;

– ensure effective participation of Travellers' representatives in the work of various bodies dealing with Travellers' issues and set up mechanisms of systematic consultation at the cantonal and municipal level where appropriate."

Advisory Committee Opinion

The resolution is largely based on the corresponding Opinion of the Advisory Committee on the Framework Convention. The detailed Opinion of the Advisory Committee of independent experts, together with the comments on the Opinion by the government of Switzerland are also available on line."

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **8 October 1993**, ratified on **23 December 1997**, entered into force on **1 April 1998**

Last periodic state report (4th cycle) submitted in **December 2009** [MIN-LANG/PR(2010)1]

Last assessment report (4th cycle) of the Committee of Experts adopted in **June 2010** [ECRML(2010)8]

Last recommendation (4th cycle) of the CM adopted in **December 2010** [RecChL(2010)7]

Next periodic state report (5th cycle) due in **December 2012**

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 8 December 2010:

'Council of Europe publishes report on minority languages in Switzerland

The Council of Europe Committee of Ministers has today made public the fourth report on the application of the European Charter for Regional or Minority Languages in Switzerland. The report has been drawn up by a committee of independent experts, which monitors the application of the Charter.

On the basis of this report, the Council of Europe recommends Switzerland to ensure that the introduction of Rumantsch Grischun is carried out in a way which is sensitive to the protection and promotion of Romansh as a living language.

Furthermore, the Council of Europe calls on Switzerland to organise language training in Romansh for administrative staff."

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the fourth report on Switzerland was adopted in April 2009 and made public in **September 2009**.

Extracts of press release of 15 September 2009:

"Council of Europe's Anti-Racism Commission publishes new reports on the Czech Republic, Greece and Switzerland

The European Commission against Racism and Intolerance (ECRI) released today three new reports examining racism, xenophobia, antisemitism and intolerance in the Czech Republic, Greece and Switzerland. The Chair of ECRI, Eva Smith Asmussen, said the reports note positive developments in all three of these Council of Europe member states, but also detail continuing grounds for concern. […]

In Switzerland, measures have been taken to foster the integration of immigrants in areas such as employment, housing and health. The federal bodies in charge of racism and migration have continued to raise awareness on racism and racial discrimination. Steps have been taken to combat right-wing extremism.

However, there has been a dangerous growth of racist political discourse against non-citizens, Muslims, Black people and other minorities. Legislation is insufficiently developed to deal with direct racial discrimination, which targets in particular Muslims and persons from the Balkans, Turkey and Africa. Travellers and Yenish communities with an itinerant life style are still faced with a shortage of stopping sites and prejudice leading to instances of discrimination. Legislation governing asylum seekers has been tightened and hostility towards them has increased.

The reports are part of ECRI´s 4th monitoring round, which focuses on the implementation of its previous recommendations and the evaluation of policies and new developments since its last report. In two years time ECRI will carry out a follow up assessment."

H. SOCIAL RIGHTS

European Social Charter of 1961(ETS No. 35)signed on **6 May 1976** but not ratified

European Social Charter (revised) (ETS No. 163) neither signed nor ratified

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified

I. Parliamentary Assembly

No specific recent text concerning Switzerland

18 May 2011

12. UNITED KINGDOM

Council of Europe member state since **5 May 1949**

Number of Council of Europe Conventions ratified (as of 18 May 2011): **115** (out of 210)

Number of Council of Europe Conventions signed (as of 18 May 2011): **22**

I. PLURALISTIC DEMOCRACY[46]

A. Free and fair elections

System of government: constitutional monarchy

Last general elections: **2010**

Next general elections: **2015**

B. Local and regional democracy

European Charter on Local Self-Government (ETS No. 122) signed on 3 June 1997, ratified on 24 April 1998, entered into force on 1 August 1998

Last Congress of Local and Regional Authorities monitoring report: May 1998

II. RULE OF LAW

A. VENICE COMMISSION

Extracts of: **Opinion on the Code of Practice on observing elections of the United Kingdom** adopted by the Council for democratic elections at its 35th meeting (Venice 16 December 2010) and by the Venice Commission at its 85th plenary session (Venice, 17-18 December 2010, CDL-AD(2010)045):

"I. Introduction

1. The Electoral Commission of the United Kingdom invited the Venice Commission to provide comments on the revised *Code of Practice on Observing Elections of the United Kingdom* (hereinafter, the *"Code of Practice"*)[47] that was presented to the United Kingdom Parliament on 10 February 2010. Under the Political Parties, Elections and Referendums Act of 2000 (PPERA), the Electoral Commission of the United Kingdom has the duty to prepare a Code of conduct for election observation and to administer an accreditation scheme for all observers at United Kingdom elections (except for Scottish local government elections). […]

46. The non-governmental organisation Freedom House gives to United Kingdom a score of 1 for political rights and of 1 for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).
47. CDL-EL(2010)035.

3. Election observation expresses the interest of the international community in the achievement of democratic elections and in the respect for human rights, as well as the rule of law. Therefore, election observation missions – both national and international – have the potential to enhance the integrity of election processes by promoting public confidence, by deterring and exposing irregularities and fraud, and by providing recommendations for the improvement of the aforementioned processes.[48]

4. This Opinion reviews accreditation and authorised observers, their roles and duties, the

scope of electoral observation and postal voting in the United Kingdom. […]

IX. Conclusion

31. The existence of a Code of Practice on observing elections as an independent and specific piece of legislation in the matter, instead of being part of a general electoral code, shows that the United Kingdom is at the forefront on this issue; it reflects the high level of democratic traditions of the country and widely meets modern European electoral standards. Attention is given to the basic values of secrecy of the ballot, freedom of the voter from any pressure, and complete openness (as well as impartiality by officials) during the whole string of procedures to be performed during elections.

32. The recent provisions regarding electoral observation in the United Kingdom, including the Electoral Administration Act of 2006 and the Code of Practice on observing elections, have improved the legislation in this matter. One clear example is the entitlement of individuals and organisations from within the United Kingdom and around the world to observe, in 2010, key electoral procedures under a system of accreditation.

33. The fact that the United Kingdom legislation makes no distinction between national and international observers, regarding their rights, duties and accreditation, shows that these provisions are clear and non-discriminatory.

34. In general, legal requirements included in the Code of Practice are in compliance with international good practices, as provided by the different declarations, codes and handbooks of conduct for international election observers mentioned before. Nevertheless, a further extension of the period of observation would contribute to bringing the Code more in line with both the Guidelines on an internationally recognised status of election observers and the Code of good practice in electoral matters of the Venice Commission.

35. Moreover, simplification by avoiding repetitions would give more clarity to the Code of Practice, by compiling application processes, contact details and guidance into a single general part of the Code of Practice devoted both to individual observers and organisation observers.

36. In addition, the Code of Practice could provide further information about the reasons for limiting the observation of local proceedings or working practices wholly concerned with local government elections in Scotland.

37. Finally, further policing tasks could be added to the Code of Practice to implement a partnership strategy of observation and threat assessment, particularly during the issuance and receipt of postal ballots in order to enhance public confidence on transparency of postal voting, including its transportation.“

B. FUNCTIONING OF THE JUDICIARY

In October 2010 the **European Commission for the Efficiency of Justice (CEPEJ)** published a new edition of its report on the evaluation of European judicial systems.

It emerges from this report that:

– the **annual public budget** allocated to all courts, public prosecution and legal aid per inhabitant in 2008 was **€ 75,1** in England and Wales and **€ 86,5** in Scotland (data non supplied for Northern Ireland);

– the **number of professional judges** in 2008 was **1,902**, this means 3.5 for 100 000 inhabitants in England and Wales, **123**, this means 7.0 for 100 000 inhabitants in Northern Ireland and **181**, this means 3.5 for 100 000 inhabitants in Scotland;

– the **number of public prosecutors** was **2 868**, this means 5.3 for 100 000 inhabitants in 2009 in England and Wales and **440**, this means 8.5 for 100 000 inhabitants in 2008 in Scotland (data non supplied for Northern Ireland).

48. Declaration of principles for International election observation and Code of conduct for International election observers, op. cit., pp. 1-2.

C. The fight against corruption and organised crime[49]

Civil Law Convention on Corruption (ETS No. 174) signed on 8 June 2000 but not ratified

Criminal Law Convention on Corruption (ETS No. 173) signed on 27 January 1999, ratified on 9 December 2003, entered into force on 1 April 2004, Additional Protocol (ETS No. 191) signed on 15 May 2003, ratified on 9 December 2003, entered into force on 1 February 2005

Extract of: **Second Evaluation Round: Addendum to the Compliance Report on the United Kingdom** adopted by GRECO at its 41st Plenary Meeting [Strasbourg, 16-19 February 2009, GrecoRC-II(2006)8Eaddendum]:

"Conclusion

16. In addition to the conclusions contained in the Second Round Compliance Report on the United Kingdom, and in view of the above, GRECO concludes that recommendations i and v have been implemented satisfactorily. The United Kingdom has thus complied with all recommendations issued in connection with GRECO's Second Evaluation Round.

17. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of the United Kingdom.

18. GRECO invites the authorities of the United Kingdom to authorise, as soon as possible, the publication of the Addendum."

Extract of: Third Evaluation Round: Compliance Report on the United Kingdom "Incriminations (ETS 173 and 191, GPC 2)" "Transparency of Party Funding" adopted by GRECO at its 46th Plenary Meeting [Strasbourg, 22-26 March 2010, GRECORC-III(2009)3E]:

"Conclusions

43. In view of the above, GRECO concludes that the United Kingdom has implemented satisfactorily only one of the eight recommendations contained in the Third Round Evaluation Report. With respect to Theme I – Incriminations, recommendations i and ii, have been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendation iii has been implemented satisfactorily, recommendations iv and v have been partly implemented and recommendations i, ii and vi have not been implemented.

44. In respect of incriminations, the United Kingdom has reached an advanced stage of reform through the submission of the Bribery Bill on 19 November 2009 to Parliament. If the Bribery Bill leads to the eventual adoption of new Bribery legislation, this would be a major achievement, not least in the light of the fact that this matter has been under consideration in the United Kingdom for many years and that earlier attempts to revise bribery legislation have failed. That said, GRECO urges the authorities to further consider the possibilities of criminalising "trading in influence" and thus withdrawing the reservation in respect of Article 12 of the Criminal Law Convention on Corruption (ETS 173).

45. Insofar as the transparency of party funding is concerned, new promising legislation is in place to further develop the role of the monitoring mechanism, the Electoral Commission, as a regulator with proactive powers, including the possibility to impose appropriate sanctions. This major achievement is in the process of being fully implemented with the establishment of secondary legislation and procedural rules which are underway. Although the relevant recommendations (recommendations iv and v) are not yet fully complied with, what remains to be done appears to be minor in comparison with what has already been achieved. GRECO is also generally pleased with the responses to most of the other recommendations the implementation of which seems to be well under way.

46. In the light of what has been stated in paragraphs 43 to 45, GRECO notes that the United Kingdom has been able to demonstrate that substantial reforms with the potential of achieving an acceptable level of compliance with the pending recommendations within the next 18 months are underway. GRECO therefore concludes that the current low level of compliance with the recommendations is not "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO invites the Head of the delegation

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49. United Kingdom is in 20th position with a score of 7.6 in the "2010 Corruption Perceptions Index" launched by the non-governmental organisation Transparency International (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Denmark, New Zealand and Singapore have the top score of 9.3 while Somalia is in 178th position with the lowest score at 1.1).

of the United Kingdom to submit additional information regarding the implementation of recommendations i and ii (Theme I – Incriminations) and recommendations i, ii and iv – vi (Theme II – Transparency of Party Funding) by 30 September 2011 at the latest.

47. Finally, GRECO invites the authorities of the United Kingdom to authorise, as soon as possible, the publication of this report."

D. The fight against money laundering

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 (ETS No. 141) signed on 8 November 1990, ratified on 28 September 1992, entered into force on 1 September 1993

Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198) neither signed nor ratified

The FATF Presidency has designated United Kingdom member of the MONEYVAL for a period of 2 years.

III. PROTECTION OF HUMAN RIGHTS[50]

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

Last reports: **2008**, following visits to the country in **February and March-April 2008**

Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visits to the United Kingdom. Issues reviewed: asylum and immigration (CommDH(2008)23, 18 September 2008)

Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visits to the United Kingdom. Issues reviewed: Corporal punishment (CommDH(2008)28, 9 October 2008)

Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visits to the United Kingdom. Issue reviewed: Juvenile Justice (CommDH(2008)27, 17 October 2008)

Press release of 31 March 2011:

"Prisoners should have the right to vote

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

This problem should indeed be discussed, and not only in the UK. A thorough debate would raise a number of issues of crucial importance such as: the very purpose of penal sentences; which human rights should remain for those deprived of their liberty; what approach is likely to promote reintegration of convicts; and what treatment may minimise recidivism and thereby reduce crime.

The prestigious Constitutional Court in South Africa ruled in 1999 that all prisoners should have the right to vote, stating that "[t]he vote of each and every citizen is a badge of dignity and personhood. Quite literally it says that everybody counts". The Canadian Supreme Court took a similar stance in a famous ruling in 2002, declaring that this position is necessary as a message that "everyone is equally worthy and entitled to respect under the law".

Universal suffrage – democratic cornerstone

It may be sobering to remind ourselves that democracy was once established through the idea of universal suffrage. Our forefathers accepted the principle that not only male persons, nobles, and those who owned property or paid taxes should have the right to vote, but everyone – irrespective of their status in society. We may now feel that some of these right-holders do not deserve this possibility, but to exclude them is to undermine a crucial dimension of the very concept of democracy – and thereby human rights.

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50. United Kingdom is in 19th position with a score of 6.00 in the "World Press Freedom Index 2010" made by the non-governmental organisation Reporters Without Borders (in comparison, Finland, Iceland, Norway, Netherlands, Sweden and Switzerland share the 1st position with a score of 0.00 while Eritrea is on the 178th and last position with a score of 105.00).

Indeed, international human rights law has established that the right to vote in elections should be granted to all citizens above a certain age. The 1948 Universal Declaration of Human Rights stated that everyone has the right to take part in the government of his or her country, directly or through freely chosen representatives. It further stipulated that the will of the people shall be expressed in elections which shall be by universal and equal suffrage.

Prisoners, though deprived of physical liberty, have human rights. Measures should be taken to ensure that imprisonment does not undermine rights which are unconnected to the intention of the punishment. Indeed, authorities should ensure, for instance, that a prisoner can receive health care and have contact with his or her family. The right to study, to be informed and to vote belongs to this same category of rights which should be protected.

Sense of belonging

The South African Constitutional Court made an important point – the right to vote is special in the sense that it symbolises belonging. To be deprived of this right is to be declared an outcast, a non-person. That approach does not correspond to the European values of our times.

Obviously, such stigmatisation does not promote the rehabilitation and reintegration of convicts into society. It does not help to address the enormous problem of recidivism.

Europe is divided on this issue. There are however more states which have decided to grant prisoners the right to vote than those retaining a ban. The former countries – for instance, Denmark, Netherlands and Switzerland – have had no problem with this approach. It is seen as natural that prisoners have a possibility to cast their votes.“

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR (ETS No. 5)ratified on **8 March 1951**

Protocol No. 6 (ETS No. 114) ratified on **20 May 1999**

Protocol No. 12 (ETS No. 177) neither signed nor ratified

Protocol No. 13 (ETS No. 187) ratified on **10 October 2003**

Protocol No. 14 (CETS No. 194) ratified on **28 January 2005**

Out of a total of 1,499 judgments delivered by the Court in 2010, there are **21** concerning United Kingdom: 14 judgments finding at least one violation and 7 judgments finding no violation.

Out of a total of 139,650 pending cases on 31 December 2010, **3,172** concerned United Kingdom.

Resolutions adopted by the Committee of Ministers in 2010: **25**

No Interim Resolution

Resolutions adopted by the Committee of Ministers in 2011 (as of 18 May 2011): **3**

No Interim Resolution

C. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Convention (ETS No. 126)signed on **26 November 1987**, ratified on **24 June 1988**, entered into force on **1 February 1989**, **Protocols No. 1** (ETS No. 151)**and No. 2** (ETS No. 152)signed on **9 December 1993**, ratified on **11 April 1996**, entered into force on **1 March 2002**

Last country visit: **June 2010**

Publication of the last report: **November 2010**

Press release of 19 November 2010:

“The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has published today the reports on its visit to the Channel Islands (Bailiwicks of Guernsey and Jersey) in March 2010, together with the responses of the States of Guernsey and States of Jersey Governments. These documents have been made public at the request of the United Kingdom authorities.

The CPT's delegation gathered no evidence of the ill-treatment of persons in police custody. However, in both Bailiwicks, a few allegations were received of excessive use of force at the time of arrest. The CPT comments in its reports that police officers need to be reminded regularly that no more force than is strictly necessary should be used when effecting an arrest.

Conditions of detention at the Police Headquarters in St. Peter Port, Guernsey, were on the whole adequate. In contrast, they were not satisfactory at the Police Headquarters in Rouge Bouillon, Jersey; in their response, the Jersey authorities refer to plans for a new police station which will incorporate a modern custody facility.

The CPT's delegation received no allegations of ill treatment of prisoners by staff at La Moye Prison in Jersey and, with one exception, the same was true of Guernsey Prison. Positive staff-prisoner relations were in evidence in both establishments.

Material conditions of detention were generally of a good standard in both Guernsey and La Moye Prisons. However, efforts should continue to be made to improve activities for prisoners, in particular those subject to the "standard" regime; in their responses, the authorities highlight the action being taken in this connection.

The CPT expresses concern about the current practice of holding juveniles (i.e. persons under the age of 18) in the two prisons. It emphasises that juveniles who have to be deprived of their liberty should be held in facilities specifically designed for persons of this age. The Committee recommends that for as long as juveniles continue to be held at Guernsey and La Moye Prisons, particular attention be paid to their education (including physical education) and to offering them a wide range of opportunities to develop their life skills. In their responses, the authorities recognise the drawbacks of the present situation and highlight efforts to overcome them.

In the light of the information gathered during the visit, the CPT also recommends that the Guernsey and Jersey authorities take the necessary steps to ensure that all prisoners suffering from a severe mental health disorder are cared for, without delay, in an adequately equipped hospital environment."

Next country visit: date unknown to date

D. COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Convention (CETS No. 197) signed on **23 March 2007**, ratified on **17 December 2008**, entered into force on **1 April 2009**

E. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention (ETS No. 157)signed on **1 February 1995**, ratified on **15 January 1998**, entered into force on **1 May 1998**

Last opinion (2nd cycle) by the Advisory Committee adopted in **June 2007** [ACFC/OP/II(2007)003]

Last CM resolution(2nd cycle) on the implementation of the Framework Convention adopted in **July 2008** [CM/ResCMN(2008)7]

Last state report (3rd cycle) received in **March 2010** [ACFC/SR/III(2010)003]

F. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention (ETS No. 148) signed on **2 March 2000**, ratified on **27 March 2001**, entered into force on **1 July 2001**

Last periodic state report (3rd cycle) submitted in **May 2009** [MIN-LANG/PR(2009)2]

Last assessment report (3rd cycle) of the Committee of Experts adopted in **November 2009** [ECRML(2010)4]

Last recommendation (3rd cycle) of the CM adopted in **April 2010** [RecChL(2010)4]

Next periodic state report (4th cycle) due in **May 2012**

Last biennial report by the Secretary General to the Parliamentary Assembly: **June 2010** [Doc. 12300]

Press release of 22 April 2010:

"Council of Europe publishes report on minority languages in the UK

The Council of Europe Committee of Ministers has just made public the third report on the situation of minority languages in the UK. This report has been drawn up by a committee of independent experts which monitors the application of the European Charter for Regional or Minority Languages.

On the basis of the report, the Committee of Ministers calls on the UK to continue taking resolute action for the protection and promotion of Scottish Gaelic in all areas, in particular in education, through the training of teachers and the production of teaching and learning materials.

Furthermore, the UK authorities are encouraged to adopt and implement a comprehensive Irish language policy, preferably through the adoption of legislation.

The UK should also ensure that health and social care facilities offer services in Welsh.

Finally, the Committee of Ministers recommends the UK to adopt a strategy to enhance and develop Ulster Scots, in co-operation with the speakers.

The regional or minority languages protected under the Charter in the UK are Welsh, Scottish Gaelic, Irish, Scots, Ulster Scots, Manx Gaelic and Cornish."

G. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the fourth report on United Kingdom was adopted in December 2009 and made public in **March 2010**.

Press release of 2 March 2010:

"Council of Europe's Anti-Racism Commission publishes new report on the United Kingdom

The European Commission against Racism and Intolerance (ECRI) today published its fourth report on the United Kingdom which deals with racism, xenophobia, anti-Semitism and intolerance in this country. ECRI's Chair, Nils Muiznieks, pointed out positive steps in fighting discrimination, but also expressed concern that racist incidents had become more frequent, police powers were exercised in a manner that disproportionately affected minority groups, Gypsies and Travellers still faced serious discrimination and asylum-seekers remained in a vulnerable position.

As regards positive developments, the legal framework for combating racism and discrimination has been strengthened. New criminal provisions on the prohibition of religious hatred have been enacted and police forces now apply a uniform definition of racist incidents. In addition, an Equality Bill has been introduced in Parliament with the aim of harmonising discrimination law and raising existing standards; it should provide similar protection against discrimination on the grounds of religion and belief to that provided on the grounds of race.

The United Kingdom authorities have continued their extensive monitoring of the situation of minority ethnic groups in various policy areas in order to address the problems identified better. Considerable efforts have been made to ensure that racially motivated offences are comprehensively and consistently reported and recorded by the police and to streamline practices throughout the criminal justice system.

Some encouraging signs have been noted in terms of reducing inequalities experienced by minority ethnic groups. Educational attainment among Black and minority ethnic pupils has continued to improve and the employment gap between the total population and minority ethnic groups has narrowed. An overall strategy entitled "Improving Opportunity, Strengthening Society" has been implemented with the aim of increasing racial equality in key public services such as employment, health, education and building community cohesion.

At the same time, the rise in racist incidents in recent years is worrying. The impact of anti-terror legislation on minority groups also continues to cause concern, with measures such as stops and searches disproportionately affecting members of Black and other minority ethnic communities. As a result, members of these communities, especially Muslims, feel increasingly stigmatised.

Gypsies and Travellers are still most likely to encounter discrimination in all fields of daily life and they face some of the most severe levels of hostility and prejudice. The lack of adequate sites has also frequently been at the root of community tensions.

Asylum-seekers remain vulnerable to destitution, hastily reached decisions rejecting their claims and unnecessary detention. Together with Muslims, migrants, Gypsies and Travellers, they are regularly presented in a negative light both in political discourse and in the media, especially the tabloid press. The tone of public debate continues to include some elements of racist and xenophobic discourse.

In its report, ECRI has made a number of recommendations, three of which require priority implementation and will be revisited by ECRI in two years' time:

– Ensure that legal aid is available in discrimination cases before Employment Tribunals;

– Complete the assessment of the accommodation needs of Gypsies and Travellers so as to address their disadvantages in access to adequate accommodation;

– Continue to address the under-representation of ethnic minorities in the police."

H. SOCIAL RIGHTS

European Social Charter of 1961 (ETS No. 35) signed on 18 October 1961, ratified on 11 July 1962, entered into force on 26 February 1965

European Social Charter (revised) (ETS No. 163) signed on 7 November 1997 but not ratified

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) neither signed nor ratified

Extract of the website of the European Social Charter (situation as of February 2011):

"Reports *

Between 1965 and 2011, the United Kingdom submitted 30 reports on the application of the Charter.

The 29th report, submitted on 19 November 2009, concerns the accepted provisions relating to Thematic Group 3 "Labour rights" (Article 2§§2, 3, 4 and 5, Article 4§§1, 2, 4 and 5, Articles 5 and 6 of the Charter). Conclusions in respect of these provisions were published in December 2010.

The 30th report, submitted on 11/02/2011, concerns the accepted provisions relating to Thematic Group 4 "Children, families, migrants" i.e.

– the right of children and young persons to protection (Article 7 §§ 2, 3, 5, 6, 9 and 10),

– the right of employed women to protection (Article 8§1),

– the right of the family to social, legal and economic protection (Article 16),

– the right of mothers and children to social and economic protection (Article 17),

– the right of migrant workers and their families to protection and assistance (Article 19).

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* Following a decision taken by the Committee of Ministers in 2006, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once very four years.

Situation of the United Kingdom with respect to the application of the Charter

Examples of progress achieved in the implementation of social rights under the Social Charter[51]

Children

► Corporal punishment has been abolished in both State schools and grant-maintained schools in the United Kingdom (Education Act 1986 (No. 2)).

51. "1. The [European Committee of Social Rights] rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure" (Article 2 of the Rules of the Committee).

► The protection of children from sexual exploitation and trafficking for economic exploitation strengthened (Sexual Offences Act 2003 Asylum and Immigration Act 2004).

Employment

► Dismissing an employee under a closed shop agreement is considered unfair and affords a right of action (Employment Act 1982). Any dismissal on the ground of membership or non-membership of a trade union is automatically unfair (Employment Act 1988). Any discrimination on grounds of membership or non-membership of a trade union on recruitment is unlawful (Employment Act 1990).

► The confidentiality of trade union membership is protected (Employment Relations Act 1999).

► Introduction of a statutory procedure for trade union recognition (Employment Relations Act 1999).

► Workers who take strike action enjoy employment protection for the first eight weeks (Employment Relations Act 1999).[52]

Movement of persons

► An appeal may be brought before the Immigration Appeals Tribunal against deportation orders made by the Home Secretary on grounds of national security or for political reasons (1997 Act governing the Special Immigration Appeals Commission).

► Nationals of States Parties to the Charter are no longer prevented from having access to public funds even if they happen to be subject to immigration control. They may claim means tested social assistance benefits on an equal footing with United Kingdom nationals (Social Security (immigration and Asylum) Consequential Amendments regulations 2000).

Non-discrimination (General)

► Access to a court and recognition of the right of appeal against the certifications provided for under section 79 of the Equal Treatment in Employment Act (Northern Ireland) to justify refusing employment on grounds of safeguarding national security or public order.

► Adoption of the Equality Act on 8 April 2010. This Act, inter alia, requires the Government, when making strategic decisions about the exercise of their functions, to have regard to the desirability of reducing socio-economic equalities; reforms and harmonises equality law and restates in one text the enactments relating to discrimination and harassment linked to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation in areas such as employment, access to services, education; enables certain employers to be required to publish information about the differences in pay between male and female employees.

Non-discrimination (Nationality)

► Eligibility for housing benefit (in the United Kingdom, the Isle of Man, Scotland and Northern Ireland), long tenancies for local authority housing and the right to occupy housing (in Scotland and in Northern Ireland) has been extended to foreign nationals who are citizens of States that are Contracting Parties to the Charter provided that they are habitually resident (orders of 1997, 1998 and 1999 on housing and the homeless).

Non-discrimination (Gender)

► An agreement adopted on 6 June 2005 has removed inequalities between spouses with regard to matrimonial property in Northern Ireland.

Non-discrimination (Ethnic origin)

► A comprehensive review of Gypsy and Traveller accommodation policy has been undertaken. An informed and strategic approach is taken to accommodation needs, and the planning system identifies land to meet these needs. Government funding for socially rented sites is available, and the security of tenure of those residing on such sites has been strengthened.

Non-discrimination (Disability)

► Protection against discrimination on grounds of disability was strengthened (Disability Discrimination Act 1995).

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52. RecChS(93)3 adopted by the Committee of Ministers on 7 September 1993.

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

► Article 10§4 – right to vocational training – encouragement for the full utilisation of available facilities

Equal treatment for non-EU nationals with respect to fees and financial assistance for training is not guaranteed. (Conclusions XIX-1)

► Article 18§3 – right to engage in a gainful occupation in the territory of other Parties – liberalising regulations

Foreign workers who lose their jobs must leave the country, without the possibility of searching for new employment. (Conclusions XIX-1)

Thematic Group 2 “Health, social security and social protection”

► Article 12§1 – right to social security – existence of a social security system

The level of Statutory Sick Pay, the Short Term Incapacity benefit and the Contributory Jobseekers Benefit for a single person are inadequate. (Conclusions XIX-2)

Thematic Group 3 “Labour rights”

► Article 2§2 – right to just conditions of work – public holidays with pay

It has not been established that the right to public holidays with pay is guaranteed. (Conclusions XIX-3)

► Article 2§3 – right to just conditions of work – annual holiday with pay

Workers who fall ill or are injured during their holiday are not entitled to take the days lost at another time. (Conclusions XIX-3)

► Article 2§4 – right to just conditions of work – reduced working hours or additional holidays in dangerous or unhealthy occupations

It has not been established that measures reducing exposure to risks are provided. (Conclusions XIX-3)

► Articles 2§5 – right to just conditions of work – weekly period of rest

The safeguards to prevent that workers work for more than twelve consecutive days without a rest period are inadequate. (Conclusions XIX-3)

► Articles 4§1 – right to a fair remuneration – decent remuneration

Despite a number of efforts aimed at improving the overall situation of minimum wage earners, and notwithstanding the fact that the pound value of the minimum wage has gone up during the reference period, this wage remains low and cannot be considered fair in the meaning of the Charter. (Conclusions XIX-3)

► Article 4§2 – right to a fair remuneration – increased remuneration for overtime work

Workers do not have adequate legal guarantees ensuring them increased remuneration for overtime. (Conclusions XIX-3)

► Article 4§4 – right to a fair remuneration – reasonable notice of termination of employment

Notice of termination of employment for workers with less than 3 years’ service is too short. (Conclusions XIX-3)

► Article 5 – right to organise

Section 15 of the Trade Union and Labour Relations (Consolidation) Act 1992, which makes unlawful for a trade union to indemnify an individual union member for a penalty imposed for an offence or contempt of court, and Section 65 of this Act, which severely restricts the grounds on which a trade union may lawfully discipline members, represent unjustified incursions into the autonomy of trade unions. (Conclusions XIX-3)

► Article 6§2 – right to bargain collectively – negotiation procedures

1. Workers do not have the right to bring legal proceedings against employers who made offers to co-workers in order to induce them to surrender their union rights;

2. In such cases, trade unions too cannot claim a violation of the right to collective bargaining. (Conclusions XIX-3)

► Article 6§4 – right to bargain collectively – collective action

1. The scope for workers to defend their interests through lawful collective action is excessively circumscribed;

2. the requirement to give notice to an employer of a ballot on industrial action, in addition to the strike notice that must be issued before taking action, is excessive;

3. the protection of workers against dismissal when taking industrial action is insufficient.[53] (Conclusions XIX-3)

Thematic Group 4 “Children, families, migrants”

► Article 7§3 – right of children and young persons to protection – prohibition of employment of children subject to compulsory education

The mandatory rest period during the school holidays for children still subject to compulsory education is not sufficient to ensure that they may fully benefit from such education. (Conclusions XVII-2)

► Article 7§5 – right of children and young persons to protection – fair pay

There was no evidence that, during the reference period, young workers’ lowest wages were fair compared to adult workers’ minimum wages, which were themselves unreasonably low compared to the average wage in industry and services. (Conclusions XVII-2)

► Article 8§1 – right of employed women to protection of maternity – maternity leave

1. The compulsory period of post natal leave is less than six weeks.

2. The standard rates of SMP (Statutory Maternity Pay) and MA (Maternity Allowance) were inadequate during the reference period. (Conclusions XVII-2)

► Article 16 – right of the family to social, legal and economic protection

The right of Roma/Traveller/Gypsy families to housing is not effectively guaranteed. (Conclusions XVIII-1)

► Article 17 – right of mothers and children to social and economic protection

1. Corporal punishment in the home is not prohibited;

2. The age of criminal responsibility is manifestly too low. (Conclusions XVII-2)

► Article 19§§6 and 10 – right of migrant workers and their families to protection and assistance – family reunion; equal treatment for the self-employed

Neither legislation nor practice provide for family reunion in respect of migrant workers’ children aged between 18 and 21 years. The same applies to self-employed workers.(Conclusions XVIII-1)

►Article 19§§8 and 10 – right of migrant workers and their families to protection and assistance – guarantees concerning deportation; equal treatment for the self-employed

Where a migrant worker is deported from the United Kingdom, his family members are also liable to deportation. The same applies to self-employed workers. (Conclusions XVIII-1)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Government of the United Kingdom to provide more information in the next report:

Thematic Group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2011)

► Article 18§1 Conclusions XIX-1

Thematic Group 2 “Health, social security and social protection”

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53. RecChS(97)3 adopted by the Committee of Ministers on 17 January 1997.

(Report to be submitted before 31 October 2012)

► Article 13§§1 & 4 Conclusions XIX-2

Thematic Group 4 “Children, families, migrants”

(Report to be submitted before 31 October 2010, Conclusions to be published by end of 2011)

► Article 7§10 Conclusions XVII-2

► Article 19§4 Conclusions XVIII-1”

I. Parliamentary Assembly

Press release of 11 February 2010:

“PACE Legal Affairs Committee head reacts to UK vote on prisoner voting

Following yesterday’s vote in the House of Commons on prisoners’ voting rights, Christos Pourgourides (Cyprus, EPP/CD), Chair of the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly (PACE), made the following statement:

“I am deeply disappointed by last night’s vote, in defiance of the ruling by the European Court of Human Rights on prisoner voting. I had hoped that the parliament of one of Europe’s oldest democracies – regarded as playing a leading role in protecting human rights – would have encouraged the United Kingdom to honour its international obligations, as our Assembly urged only last month. Every member state must implement the judgments of the Court.

The United Kingdom government has said that it intends to implement this judgment, and I encourage it to find a way to do so that is consistent with its international legal obligations. There are different ways this can be done, as shown by the range of positions on this issue in Council of Europe member states.””

Urgent need for the adoption of measures implementing a judgment of the European Court of Human Rights: Written question no 581 to the Committee of Ministers presented by Mr Pourgourides (Doc. 12133, 25 January 2010):

“In light of the urgent need for the adoption of measures implementing the European Court of Human Rights judgment in the case of *Hirst (No.2) v. the United Kingdom*, of 6 October 2005,

Mr Pourgourides,

To ask the Committee of Ministers,

What steps is the Committee of Ministers taking to follow-up the Interim Resolution adopted at its December 2009 Human Rights meeting, which calls upon the United Kingdom authorities to implement measures ensuring that the forthcoming general election will be performed in a way which is compliant with the European Convention on Human Rights, as interpreted by the Court?”

Resolution 1634 (2008)**: Proposed law on forty-two-day pre-charge detention in the United Kingdom**, text adopted by the Assembly on 2 October 2008 (see Doc. 11725, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr de Vries)

Resolution 1628 (2008)**: Situation in Cyprus**, text adopted by the Assembly on 1 October 2008

(see Doc.11699, report of the Political Affairs Committee, rapporteur: Mr Hörster, and Doc. 11727, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Cilevičs)