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

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Introduction

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

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

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

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

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

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

A. Judgments

1. Judgments deemed of particular interest to NHRSS

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

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Pilot judgments**

Dimitrov and Hamanov v. Bulgaria (nos. 48059/06 and 2708/09) and Finger v. Bulgaria (no. 37346/05) (Importance 2) – 10 May 2011 – Violation of Article 6 § 1 – Excessive length of proceedings – Violation of Article 13 – Lack of an effective remedy in that respect – Article 46 – The Court held that Bulgaria was to introduce a remedy in respect of unreasonably long criminal proceedings and a compensatory remedy in respect of unreasonably long criminal, civil and administrative proceedings, remedies which had to become available within 12 months from the date on which this judgment become final

The cases concern the excessive length of civil and criminal proceedings in Bulgaria. The three applicants complain about the excessive length of the proceedings in their cases and the lack of an effective remedy. In February 2010, the Court brought the applications to the attention of the Bulgarian Government and asked them whether there was a **systemic problem in Bulgaria regarding the excessive length of criminal, civil and administrative proceedings, and whether the cases were suitable for the Court’s pilot judgment procedure** (new Rule 61 of the Rules of Court).

Article 6 § 1

In both cases the Court recalled that the “reasonable time” guarantee of Article 6 § 1 ensured public trust in the administration of justice and protected all parties to court proceedings against excessive procedural delays. The reasonableness of the duration of proceedings had to be assessed in the light of the particular circumstances of each case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities, and what was at stake for the applicant. Tackling the problem of unreasonable delay in judicial proceedings might require the State to take a range of legislative, organisational, budgetary and other measures. The Court noted that the delays in both cases were attributable to the courts. There had been a violation of Article 6 § 1 concerning all three applicants.

Article 13

Dimitrov and Hamanov (criminal proceedings) - The only remedy that the Court had found, in certain situations, to be effective in relation to the length of criminal proceedings in Bulgaria was the possibility for an accused to have his or her case brought to trial or to have the proceedings discontinued if the preliminary investigation was too lengthy. However, that remedy would not have been able to provide adequate redress to either applicant. *Finger* (civil proceedings) - The only acceleratory remedy in Bulgaria for excessively long civil proceedings was the "complaint about delays". In 2008 that remedy was superseded by a "request for fixing of time limit in the event of delay". However, it was introduced after the end of the proceedings at issue in *Finger*. The Court was not persuaded that a "complaint about delays" would have been effective in *Finger*, because the proceedings had already lasted three years at the time when it was introduced and the major source of delay was not so much the courts' failure to schedule hearings at reasonable intervals, but the fact that they did not organise the examination of the case properly, dealt with it over a considerable number of hearings, and failed to gather evidence in an efficient manner. The Court also noted that there were no compensatory remedies for excessively long criminal, civil or administrative proceedings in Bulgaria. The Court welcomed the fact that the 2007 Judiciary Act recognised the right to a "hearing within a reasonable time", and that the 2005 Code of Criminal Procedure laid down an obligation for the courts to "examine and decide cases within a reasonable time", and for prosecutors and the investigating authorities to ensure that "pre-trial proceedings are conducted within the time limits laid down in [the] Code". However, there appeared to be no means by which the individuals concerned might vindicate that right or obtain redress for a failure to comply with that obligation. The Court concluded that there had been a violation of Article 13 concerning all three applicants.

Article 46

The Court noted that it had found breaches of Article 6 § 1 concerning the length of criminal proceedings in more than 80 cases and in relation to the length of civil proceedings (including administrative and civil claims in criminal proceedings) in almost 50 cases concerning Bulgaria. There were approximately **200 and 500 cases against Bulgaria awaiting first examination by the Court which contained a complaint concerning, respectively, the length of criminal or civil proceedings**. The Court found that those statistics indicated that there was a **systemic problem concerning criminal and civil proceedings in Bulgaria**. The Bulgarian Government had argued that those problems had been resolved through new laws and organisational measures. The Court welcomed all measures capable of preventing delays in future proceedings. However, it noted that it was too soon to assess the impact of legislative reforms introduced between 2006 and 2010 or to find that the measures taken by Bulgaria to prevent unreasonably lengthy proceedings had produced tangible results. Indeed, statistics supplied by the Government to the Court contained no data about the average duration of criminal or civil proceedings in Bulgaria. The Court found that the problem of the excessive length of criminal and civil proceedings in Bulgaria could not currently be regarded as having been fully resolved. The Court recalled that less than full application of the guarantees of Article 13 would undermine the operation of the subsidiary character of the Court in the Convention system and, more generally, weaken the effective functioning, at both national and international level, of the scheme of human rights protection set up by the Convention. The Court concluded that there was a clear need for the introduction of a remedy or a range of remedies in respect of the excessive length of criminal proceedings, an acceleratory remedy and a remedy to provide compensation, including for past delays. Indeed, **the Committee of Ministers of the Council of Europe very recently invited the Bulgarian authorities "to complete as soon as possible the reform undertaken in order to introduce a remedy whereby compensation may be granted for prejudice caused by excessive length of judicial proceedings" and the Bulgarian authorities were now working on a draft bill**. The Court stressed that the introduction of effective domestic remedies was essential to ensure that individuals were not systematically forced to refer to the Court in Strasbourg complaints that could otherwise, and in the Court's opinion more appropriately, have been addressed in the first place within the national legal system. The Court held that Bulgaria was to introduce a remedy or remedies in respect of unreasonably long criminal proceedings and a compensatory remedy in respect of unreasonably long criminal, civil and administrative proceedings. Those remedies had to conform to the Court's principles and become available within 12 months from the date on which today's judgments become final. The Court did not consider it appropriate to adjourn the examination of similar cases pending the implementation of the relevant measures by Bulgaria.

Article 41

Under Article 41 (just satisfaction), the Court held that Bulgaria was to pay 6,400 euros (EUR) to Mr Dimitrov, EUR 600 to Mr Hamanov and EUR 1,200 to Ms Finger, in respect of non-pecuniary damage, and EUR 2,723 to Mr Dimitrov and EUR 3,306.81 to Ms Finger, in respect of costs and expenses.

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

Popandopulo v. Russia (no. 4512/09) (Importance 2) – 10 May 2011 – Three violations of Article 3 (substantive and procedural): (i) Conditions of the applicant’s detention in facility IZ-47/1 in St Petersburg; (ii) Ill-treatment by a special inspection unit in prison; and (iii) Lack of an effective investigation – Violation of Article 13 – Lack of an effective remedy – No violation of Article 3 (substantive) – Improved conditions of detention during two periods of detention – No violation of Article 6 § 1 – Reasonable length of the criminal proceedings

The applicant is currently serving a sentence of life imprisonment in a correctional colony in the Yamalo- Nenetsk Autonomous Region in Russia for, among other offences, aggravated murder. He was arrested in April 2005 on charges of murder, theft and robbery and convicted in November 2007. He alleged that he had been ill-treated in a St Petersburg facility while he was still in pre-trial detention on those charges. Notably, on 28 October 2007 a special inspection unit wearing balaclavas raided his cell and hit all its occupants with rubber truncheons. He claimed that the operation, supposedly to search the cell for forbidden objects, was in fact to make detainees abandon a collective hunger strike.

The applicant complained about his pre-trial detention in St Petersburg: notably he alleged that the conditions there had been appalling and that he had been beaten by prison officers of a special inspection unit during a raid on his cell. He also complained about the inadequacy of the investigation into his allegations of ill-treatment and the excessive length of the criminal proceedings against him.

Article 3

Neither party disputed the fact that, on 28 October 2007, prison officers carried out an inspection of the applicant’s cell in St Petersburg and used a rubber truncheon against him, causing him multiple injuries. The Court found that the authorities had failed to properly account for the necessity of such treatment. Particularly concerned by the involvement of a special inspection unit in the incident, the Court considered that the use of force had been retaliatory in nature and had aimed at forcing the applicant into submission. Such treatment had to have caused him mental and physical suffering, in violation of Article 3. Nor had the investigation into the applicant’s allegations been effective. It had taken more than nine months after the incident for the prosecuting authorities to come to their decision not to bring criminal proceedings; and, it had taken almost another year for that decision to be cancelled and another inquiry ordered. The applicant has had no news of the outcome of that additional inquiry and the Government have given no satisfactory explanation for not providing such information. The Court held that there had been a further violation of Article 3. The Court held that there had been a violation of Article 3 both on account of the overcrowding to which the applicant had been subjected from May 2005 to November 2007 – there having already been a number of similar cases in which the Court had found that that particular detention facility in St Petersburg had been severely overcrowded – and then, when in solitary confinement from November 2007 to at least April 2008, due to the fact that he had had to spend a considerable part of each day confined to his cell with inadequate sleeping arrangements, limited access to daylight and lack of regular outdoor exercise. As concerned the period from April 2008 to September 2008 and then from June to September 2009, the information provided by both parties showed that, following repair work in the facility, the concrete benches had been replaced by bunk beds and that additional measures had been taken to improve the artificial lighting in the cells. The Court held that the cumulative effect of the applicant’s detention conditions had not been severe enough for it to find a violation of Article 3.

Article 6 § 1

The Court found that the length, almost three and a half years, of the criminal proceedings against the applicant had not been excessive. There had therefore been no violation of Article 6 § 1.

Article 41 (just satisfaction)

The Court held that Russia was to pay the applicant 18,000 euros (EUR) in respect of non-pecuniary damage. The applicant made no claim for costs and expenses.

Bisir and Tulus v. Moldova (no. 42973/05) (Importance 3) – 17 May 2011 – Two violations of Articles 3 (substantive and procedural): (i) Ill-treatment of a detainee; and (ii) Lack of an effective remedy – Violation of Article 8 – Unlawful house searches

The applicants are two married couples. They were attending a party in June 2005 when the two male applicants were arrested by masked police officers who interrupted the celebration. The police officers informed the men that they were being arrested on suspicion of forging a contract and swindling a large amount of money from a third company. Later that night, between approximately midnight and 3 a.m., masked police officers searched the applicants’ houses. In October 2005, the Moldovan courts dismissed the complaints brought by the applicants that those searches had been unlawful. A few

days after the arrest, the prosecution office issued a press statement in which the two detained applicants were described as members of a criminal gang. The Moldovan courts extended the detention of the two men several times. On a few occasions, one of the detained applicants, Ivan Bisir, was taken to a prison hospital as a result of a hunger strike and health problems. He was also seen several times by independent doctors, one of whom recommended back surgery. The other detained applicant, Ivan Tulus, was kept for 53 days in solitary confinement in a room which, according to him, was so poorly lit that, as a result, he lost at least 10 % of his sight. On 6 September 2005, while Ivan Bisir was in the prison hospital, his cell was searched by police officers. When Mr Bisir asked about the reasons for the search, he was allegedly kicked, punched and dragged into the prison corridor. He also lost consciousness several times. His account of the events was confirmed in writing by a cell-mate. Ivan Bisir complained to the prosecutor about the ill-treatment. A forensic medicine institute, asked whether the injuries could have been self-inflicted or the result of a fall, replied on the same day that that had been possible. Mr Bisir's complaint about being ill-treated was ultimately dismissed, the prosecution authorities having relied on the forensic opinion and concluded that the injuries had been the result of a fall. In 2006, the prosecution dropped the criminal charges against the applicants for lack of evidence.

The applicants complained about the conditions in which they had been detained, the lack of medical care, the ill-treatment of Ivan Bisir, the unlawfulness of their detention, the unlawfulness of the searches in their houses, the issuing of a press statement presenting them as criminals, and the lack of an effective remedy.

Article 3 (ill-treatment and investigation into it)

The Court noted that Ivan Bisir had been injured while in detention. While the parties agreed that he had sustained scratches and bruises all over his body at the time, they disagreed about their cause. The Court noted that the injuries had been consistent with the version of events presented by Mr Bisir and his cell-mate, neither of whom had been questioned during the investigation by the Moldovan authorities. In coming to their conclusions, the Government had relied entirely on the accounts of the police officers and had failed to provide a convincing explanation for the injuries. Consequently, Mr Bisir had been injured at the hands of the authorities, in violation of Article 3. The Court held that there had been a further violation of Article 3 as no effective investigation had been conducted into his complaints of ill-treatment.

Article 8 (house search)

The search of the applicants' houses had been carried out at night. The applicable Moldovan law prohibited night searches other than in exceptional cases. Given that the Government had not claimed that the case was exceptional, the search had not been lawful. There had, therefore, been a violation of Article 8 in respect of Svetlana Bisir and Elena Tulus.

Article 41 (just satisfaction)

Under Article 41, the Court held that Moldova was to pay Ivan Bisir 15,000 euros (EUR) in respect of non-pecuniary damage, Svetlana Bisir EUR 1,200 for non-pecuniary damage, and to Elena Tulus EUR 1,200 for non-pecuniary damage.

Gladović v. Croatia (application no. 28847/08) – 10 May 2011 – Violations of Article 3 (substantive and procedural): (i) Ill-treatment by prison guards while in pre-trial detention; (ii) Lack of an effective investigation

The applicant is currently serving a prison term in Lepoglava State Prison. In January 2007, the applicant was placed in pre-trial detention in Split Prison in connection with an investigation into suspected drug possession. A psychiatric report commissioned for the purposes of the criminal proceedings indicated that he was a long term drug addict and that he showed signs of a personality disorder. His trial began in the beginning of March 2007. According to the Government's submissions, the applicant was identified as a difficult prisoner; he had been reported as having shouted through the window of his cell at night and having kicked the door of his cell. In the morning of 29 March 2007, two prison guards used force against the applicant. According to the guards' reports, the applicant had thrown a bench against the door of his cell, had been shouting and had approached one of the guards in a threatening manner, who had then tried to calm the applicant by using physical force and, after he ignored the guard's order to stop resisting, the guard beat him with a rubber truncheon on his arm, then put him in an elbow lock and took him to an isolation cell. Two medical reports by the prison doctor noted that the applicant complained of pain in his shoulder and that he had a haematoma on his arm. The applicant complained to the judge conducting the criminal trial against him in the Split County Court, alleging that six or seven prison guards had hit him with rubber truncheons while he was lying on the floor. The prison governor lodged a request for disciplinary proceedings against the

applicant with the same judge. In April 2007, the judge found the applicant guilty of “improper behaviour towards State officials, attempting to physically attack State officials and insulting State officials”, the decision being based on the report by the prison personnel and the applicant written statement.

The applicant complained that he had been beaten by the prison guards and that no effective investigation had been carried out in that respect.

Article 3

It was not disputed between the parties that prison guards had used physical force against the applicant and that they had beaten him twice with a rubber truncheon. In view of the vulnerable position in which he had found himself as a detainee, the Court found that the applicant's injury noted by the prison doctor was sufficiently serious to fall under Article 3. The judge conducting the criminal proceedings against the applicant had also issued a decision concerning the disciplinary offences committed by him. However, in those proceedings no assessment had been made as to the use of force against him in order to establish its intensity and whether it had been strictly necessary. In view of the importance of the guarantees against ill-treatment under Article 3, the Court could not accept that the judge had satisfied herself with the version of events as presented by the prison guards. No forensic report had been drawn up, which could have possibly verified the applicant's allegations that he had been hit while lying on the ground. Although the incident had taken place in his cell, no witness statements had been obtained from his cellmates. the applicant's mental problem – which in the Government's view made his allegations unreliable - could not absolve the authorities from properly investigating allegations of ill-treatment by State officials in circumstances where it was undisputed that some form of force had been used. There had accordingly been a violation of Article 3 in its procedural aspect. Given that it was undisputed that the applicant had been hit by a prison guard with a rubber truncheon and that he had sustained injuries as a result, the burden rested on the Government to demonstrate that the use of force had not been excessive. However, without any serious effort to find out whether the use of force had been necessary – the lack of any witness statements or a forensic report - the Court was unable to see on what basis the domestic authorities had satisfied themselves that the force used against him had been necessary. The Court concluded that there had been a violation of Article 3 on account of the inhuman and degrading treatment to which the applicant had been subjected by the prison guards.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Croatia was to pay the applicant 9,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,350 in respect of costs and expenses.

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

Mosley v. the United Kingdom (no. 48009/08) (Importance 1) – 10 May 2011 – No violation of Article 8 – The Convention does not require that the media give prior notice of intended publications to those who feature in them

The applicant is the former president of the International Automobile Federation, a nonprofit association that represents the interests of motoring organisations and car users worldwide and is also the governing body for Formula One. In March 2008, the Sunday newspaper News of the World published on its front page an article entitled “F1 boss has sick Nazi orgy with 5 hookers”. Several pages inside the newspaper were also devoted to the story which included still photographs taken from video footage secretly recorded by one of the participants in the sexual activities. An edited extract of the video, in addition to still images, were also published on the newspaper's website and reproduced elsewhere on the internet. In April 2008, the applicant brought legal proceedings against the newspaper claiming damages for breach of confidence and invasion of privacy. In addition, he sought an injunction to restrain the News of the World from making available on its website the edited video footage. The High Court refused to grant the injunction because the material was no longer private as it had been published extensively in print and on the Internet. In subsequent privacy proceedings before the High Court, the court found that the images did not carry any Nazi connotations. Consequently there was no public interest and thus no justification for publishing that article and accompanying images, which had breached his right to privacy. The court ruled that News of the World had to pay to the applicant 60,000 GBP in damages.

The applicant complained that, despite the monetary compensation awarded to him by the courts, he remained a victim of Article 8 as a result of the absence of a legal duty on the News of the World to notify him in advance of their intention to publish material concerning him thus giving him the opportunity to ask a court for an interim injunction and prevent the material's publication.

The British Government considered that the applicant was no longer a victim of a Convention violation given that he had been compensated by the newspaper as ordered by the UK courts: 60,000 British pounds in damages and GBP 420,000 for legal costs. The applicant insisted that he had remained a victim of a violation by the UK of his right to privacy. The Court found that no sum of money awarded after disclosure of the material which had caused the applicant humiliation could be a remedy for his specific complaint that no legal requirement existed in the UK obliging the media to give advance warning to a person of a publication related to their private life. Consequently, the applicant could claim to still be a victim of a Convention violation.

The Court noted that the UK courts had found no Nazi element in the applicant's sexual activities and had therefore concluded that there had been no public interest in, and therefore justification for, the publication of the articles and images. The Court considered that the publications in question had resulted in a flagrant and unjustified invasion of the applicant's private life. The Court's own assessment concerned the balancing act to be conducted between the right to privacy and the right to freedom of expression in relation to the UK legal system. The Court stressed that any restriction on journalism required careful scrutiny. In the United Kingdom, the right to private life had been protected with a number of measures. In addition, in the context of private life and freedom of expression, a parliamentary inquiry on privacy issues had been recently held in the UK with the participation of various interested parties, including the applicant himself, and the ensuing report had rejected the need for a pre-notification requirement. The current UK system fully corresponded to the resolutions of the Parliamentary Assembly of the Council of Europe on media and privacy. As to the clarity of any pre-notification requirement, the Court was of the view that the concept of "private life" was sufficiently well understood for reporters to be able to identify when a publication could infringe the right to respect for private life. However, any pre-notification obligation would have to allow for an exception if public interest was at stake. Thus, a newspaper could opt not to notify an individual if it believed that it could subsequently defend its decision on the basis of the public interest. The Court observed in that regard that a narrowly defined public interest exception would increase the chilling effect of any pre-notification duty. In the applicant's case, given that the News of the World had believed that the sexual activities they were disclosing had had Nazi overtones, hence were of public interest, they could have chosen not to notify the applicant, even if a legal pre-notification requirement had been in place. The Court emphasised that any pre-notification requirement would only be as strong as the sanctions imposed for failing to observe it; however, particular care had to be taken when examining constraints which might operate as a form of censorship prior to publication. Although punitive fines and criminal sanctions could be effective in encouraging pre-notification, that would have a chilling effect on journalism, even political and investigative reporting, both of which attracted a high level of protection under the Convention. The Court concluded by recognising that the private lives of those in the public eye had become a highly lucrative commodity for certain sectors of the media. The publication of news about such people contributed to the range of information available to the public. Although the dissemination of that information was generally for the purposes of entertainment rather than education, it benefitted from the protection of Article 10. Having regard to the chilling effect to which a pre-notification requirement risked giving rise, the Court concluded that Article 8 did not require a legally binding pre-notification requirement and thus its absence in UK law had not breached Article 8.

Küçük v. Turkey and Switzerland (no. 33362/04) (Importance 3) – 17 May 2011 – No violation of Article 8 (in respect of Turkey and Switzerland) – The domestic authorities complied with their positive obligation to take adequate measures in order to secure an abducted child's return – Violation of Article 5 § 1 (in respect of Turkey) – Unlawfulness of detention of the applicant and his son

The applicants are Turkish nationals. Following his divorce in 2001, the applicant was awarded sole parental responsibility and custody in respect of his son. In July 2002 the child's mother went away with him for one month, accompanied by her brother but did not return the child at the end of the scheduled period. In August 2002 the applicant applied to the courts to secure the enforcement of his custody rights and the return of his son. He was informed that the day after his application, his former wife had crossed the border from Turkey to Bulgaria with their son, using forged documents. In October 2004 the Swiss authorities found the child, who was living in hiding with his mother and uncle, and placed him in a children's home. The applicant was able to take his son back. In November 2004 he and the child returned to Turkey. When they arrived in Ankara, they were both stopped by the police at about 1 a.m. and detained at Esenboğa Airport, on account of the prior restriction imposed on the fugitives, and in order to check their identity. The applicant explained the situation, producing relevant documents. The following morning, having been detained for several hours, he was questioned by the public prosecutor and released together with his son.

The applicant, acting in his own name and on behalf of his son, alleged that the Turkish and Swiss authorities had failed to comply with their obligation to take appropriate steps to ensure the prompt

enforcement of judicial decisions awarding him parental responsibility and custody in respect of his son. He further complained that their detention for several hours on police premises at Esenboğa Airport had been unlawful.

Article 8 (concerning Turkey and Switzerland)

The Court reiterated that Article 8 included a parent's right to have measures taken with a view to reuniting him with his child and an obligation on the national authorities to take such action. The "positive obligations" imposed by Article 8 in this sphere were to be interpreted in the light of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. In this case, the decisive factor was thus whether the Turkish and Swiss authorities had taken all steps that could reasonably be demanded of them to facilitate the enjoyment of the custody rights and parental responsibility awarded to the applicant. The Court concluded that the Turkish and Swiss authorities had taken all the necessary action, including numerous investigative steps. The fact that the procedures followed by the Turkish and Swiss judicial, police and diplomatic authorities had not been carried out in accordance with the applicant's wishes and that he had not obtained the desired result within a shorter time frame did not mean that the authorities in question had remained inactive. Ultimately, despite the time that elapsed between the child's abduction and his return to Turkey, the Turkish and Swiss authorities, having followed all the procedures required by their national laws and international conventions, had achieved the result desired by the applicants and had not failed to comply with the positive obligation arising in the circumstances. There had therefore been no violation of Article 8.

Article 5 (concerning Turkey)

The Court had to determine whether the deprivation of liberty to the applicants had been subjected at Esenboğa Airport from 1 a.m. until an unspecified time on 18 November 2004 had been "in accordance with a procedure prescribed by law" within the meaning of Article 5. It noted in particular that the warrants issued for the arrest of the child's mother and uncle could not have constituted a legal basis under Article 5 for detaining the applicant and his son for several hours at the airport to check their identity, especially as they had immediately produced all the documents relating to their identity and the custody arrangements. In addition, Turkey had not shown that their detention corresponded to one of the situations in which detention was permissible under Article 5 § 1. Seeing that there had been no legal basis in Turkish law for depriving the applicants of their liberty, there had been a violation of Article 5 § 1.

Article 41

By way of just satisfaction, the Court held, by five votes to two, that Turkey was to pay the applicants 9,000 euros (EUR) jointly for non-pecuniary damage. Judges Jočienė and Sajó expressed a separate opinion, which is annexed to the judgment.

- **Freedom of assembly**

[Gazioğlu and Others v. Turkey](#) (no. 29835/05) (Importance 3) and [Akgöl and Göl v. Turkey](#) (nos. 28495/06 and 28516/06) (Importance 2) – 17 May 2011 – Violation of Article 11 – Unjustified police dispersal of peaceful demonstrations – Violation of Article 3 – Excessive use of police force during the dispersal of demonstrations

In October 2003, the applicants in the first case took part in a demonstration against the war in Iraq, which was dispersed by police officers. They allege that they were subjected to ill-treatment during their arrest and detention. In May 2002, university students at the time, the applicants in the second case participated in a demonstration at their university to commemorate the killing of a fellow student. The demonstration, which had been allowed to take place only in the university's canteen, was dispersed by gendarmes, after the students had chanted slogans, in particular "down with fascism", and had started walking towards the chancellor's office. On the same day, the applicants were questioned by gendarme officers.

The applicants in *Gazioğlu and Others* complained that they were ill-treated by the police officers who arrested them. The applicants in *both* cases complained that the police intervention violated their right to freedom of assembly.

Article 3 (*Gazioğlu and Others*)

The Court considered that the injuries sustained by the applicants in the first case, namely in the face and on the head, had attained the minimum level of severity to fall within the scope of Article 3. Having regard to the Government's admission that those injuries had been caused by police officers, the burden rested on the Government to demonstrate that the use of force had been rendered strictly necessary by the applicants' behavior and that the force used had not been excessive. It was apparent that no serious attempts had been made by the prosecutor to establish the circumstances of

the use of force or the cause of the applicants' injuries. Although the identification numbers of the police officers involved in the dispersal of the demonstration had been included in the incident report, they had not been summoned or questioned. The prosecutor's conclusion had thus not established the true facts surrounding the events. Having regard to the fact that no other justification had been given by the Government for the use of force than the allegedly "rowdy behaviour" of some of the demonstrators and of the fact that the applicants had not committed any offences – as was confirmed by their acquittal by the criminal court – the Court considered that the use of force by the police officers, resulting in the two applicants' injuries, had been disproportionate. There had accordingly been a violation of Article 3 in respect of the two applicants.

Article 11

In the case *Gazioğlu and Others*, the Government did not dispute that there had been an interference with the applicants' rights under Article 11. In the case *Akgöl and Göl*, the Court considered that the gendarmes' intervention in the demonstration, the subsequent arrest of the applicants and the prolonged criminal proceedings against them had equally constituted an interference with their rights under Article 11. The Court was prepared to accept that the interference with the applicants' right in both cases had a basis in national law and had pursued the legitimate aim of preventing public disorder. However, as regards the question whether the interference had been "necessary in a democratic society" for the purpose of Article 11, the Court reiterated that, where demonstrators did not engage in acts of violence, as had been the case with the applicants in both cases, it was important for the public authorities to show a certain degree of tolerance towards gatherings if freedom of assembly was not to be deprived of all substance. The domestic courts had found that the applicants in the case *Gazioğlu and Others* had not committed any offences. The proceedings against the applicants in the case *Akgöl and Göl*, which were still pending, concerned only the question whether they had taken part in an unlawful demonstration; the domestic courts had already established that they had not resorted to any acts of violence. There was no evidence that the gathering on university premises had represented a danger to public safety. The applicants had been prosecuted and convicted at first instance on account of their mere participation in an unauthorised but peaceful demonstration. The Court therefore considered that the police interference with the applicants' rights to freedom of assembly had been disproportionate to the aims pursued and thus in violation of Article 11.

Article 41

Under Article 41 (just satisfaction) of the Convention, the Court held that Turkey was to pay Ms Gazioğlu and Mr Şenel 12,000 euros (EUR) and the other two applicants in the first case EUR 9,000 each, in respect of non-pecuniary damage, and EUR 2,000 to the four applicants jointly in respect of costs and expenses. As regards the second case, Turkey was to pay Mr Akgöl EUR 12,000 and Mr Göl EUR 9,000 in respect of nonpecuniary damage. In the case *Gazioğlu and Others*, Judges Jočienė and Sajó expressed a joint dissenting opinion, which is annexed to the judgment.

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 10 May 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 12 May 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 17 May 2011: [here](#)

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

<u>State</u>	<u>Date</u>	<u>Case Title and Importance of the case</u>	<u>Conclusion</u>	<u>Key Words</u>	<u>Link to the case</u>
Albania	10 May 2011	Shkalla (no. 26866/05) Imp. 2	Two violations of Art. 6 § 1	Unjustified denial of the applicant's right of access to the Constitutional Court; Conviction of the applicant <i>in absentia</i>	Link
Greece	10 May	Garyfallia and Chatzi	Violation of Art. 6 § 1 (length)	Excessive length of compensation proceedings (more than thirteen	Link

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

	2011	Others (no. 14817/09) Imp. 3		years and still pending)	
Italy	10 May 2011	Capitani and Campanella (no. 24920/07) Imp. 3	Violation of Art. 6 § 1 (fairness)	Lack of a public hearing	Link
Moldova	10 May 2011	Ganea (no. 2474/06) Imp. 2	Violation of Art. 5 §§ 1 and 5	Unlawful detention and lack of adequate compensation	Link
Moldova	17 May 2011	Megadat.com SRL (no. 21151/04) Imp. 2	Just satisfaction	Judgment on just satisfaction on account of the judgment of 8 July 2008 where the Court had held that there had been a violation of Art. 1 of Prot. 1	Link
Poland	10 May 2011	Jakubczyk (no. 17354/04) Imp. 3	No violation of Art. 6 §§ 1 and 3 (d)	Fairness of proceedings on account of the fact that the witnesses that the applicant did not get a chance to cross-examine had not given decisive testimonies for the conviction of the applicant	Link
Poland	10 May 2011	Włoch (No. 2) (no. 33475/08) Imp. 2	Violation of Art. 5 § 5	Lack of an effective and enforceable right to compensation in respect of the applicant's unlawful detention	Link
Russia	10 May 2011	Kostin (no. 23464/06) Imp. 3	Violation of Art. 6 § 1 (fairness)	Domestic authorities' failure to notify the applicant the date of his appeal hearing	Link
Russia	10 May 2011	Vadim Kovalev (no. 20326/04) Imp. 3	Violation of Art. 3 Violation of Art. 5 § 3	Conditions of detention in remand prison IZ-61/1 of Rostov-on-Don Excessive length of pre-trial detention (eighteen months)	Link

3. Repetitive cases

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key words</u>
Italy	17 May 2011	Farina (no. 75259/01) link Fiorello and Calogero (no. 67794/01) link Santinelli and Others (no. 65141/01) link	Violation of Art. 1 of Prot. 1	Lack of compensation following expropriation
Ukraine	12 May 2011	Fedorova (no. 1853/08) link Lipivitska (no. 11944/05) link	Violation of Art. 6 § 1 (both cases) Violation of Art. 13 (second case)	Excessive length of proceedings more than nine years and ten months for three levels of jurisdiction Lack of an effective remedy

4. Length of proceedings cases

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

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Link to the judgment</u>
Greece	10 May 2011	Bouliaris (no. 61773/08)	Link
Greece	10 May 2011	Loggos (no. 47039/09)	Link
Greece	10 May 2011	Nomikou (no. 54617/09)	Link
Greece	10 May 2011	Pavlidis (no. 5832/09)	Link
Greece	10 May 2011	Frangos (no. 46312/09)	Link
Greece	10 May 2011	Intersalonika A.E.G.A.Z. (no. 29980/08)	Link
Greece	10 May 2011	Mastorakis (no. 61153/09)	Link
Greece	10 May 2011	Panilas and Others (no. 3542/09)	Link
Greece	10 May 2011	Pitsaris (no. 16463/09)	Link
Hungary	17 May 2011	Horváth and Others no. 45407/05)	Link

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

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 2 to 15 May 2011**.

They are aimed at providing the NHRs with potentially useful information on the reasons of the inadmissibility of certain applications addressed to the Court and/or on the friendly settlements reached.

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Austria	03 May 2011	Viehböck (no 27933/07) link	Alleged violation of Art. 6 § 3 (c) (failure to promptly inform the applicant of the reasons for his arrest), Art. 6 (excessive length and unfairness of proceedings)	Inadmissible as manifestly ill-founded (reasonable length of proceedings; fairness of proceedings; the applicant had been dully informed of the reasons for his arrest)
Bulgaria	10 May 2011	Tsvetkov (no 13419/04) link	Alleged violation of Art. 6 §1 (unfairness of civil proceedings)	Inadmissible as manifestly ill-founded (the applicant was not placed in a disadvantageous position <i>vis-à-vis</i> the defendants and was not deprived of his right to a fair hearing)
Croatia	03 May 2011	Štokalo and Others (no 22632/07) link	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (excessive length of non-contentious proceedings), Art. 13 (lack of an effective remedy), Art. 14 and Art. 1 of Prot. 12	Partly struck out of list (in respect of first applicant as he died), partly inadmissible as manifestly ill-founded (failure to substantiate complaints concerning claims under Art. 14 and Art. 1 of Prot. 12), partly incompatible <i>ratione materiae</i> (concerning the remainder of the application in respect of the second and third applicant)
Croatia	03 May 2011	Imobilije Marketing D.O.O. and Debelić (no 23060/07)	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (excessive length of the non-contentious proceedings), Art. 13 (lack of an effective remedy), Art. 14 (different treatment of the	Partly inadmissible as manifestly ill-founded (failure to substantiate complaints concerning claims under Art. 14 and Art. 1 of Prot. 12), partly incompatible <i>ratione</i>

		link	similar cases)	<i>materiae</i> (concerning the remainder of the application)
Finland	03 May 2011	Vainio (no 62123/09) link	Alleged violation of Art. 6 (lack of a fair trial as the doctor's medical certificate, which the applicant had obtained after the ordinary proceedings were over, had not been taken into account by the Supreme Court)	Inadmissible (non-respect of the six-month requirement)
Finland	03 May 2011	Kolu (no 56463/10) link	Alleged infringement of the applicants' right to respect for home as well as right to respect for property	Idem.
Finland	03 May 2011	P.J. (no 28118/10) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Finland	10 May 2011	Karttunen (no 1685/10) link	Alleged violation of Art. 10 (alleged unlawful conviction of the applicant for having organized an exhibition concerning pornographic photos of teenagers downloaded from Internet pages)	Inadmissible as manifestly ill-founded (domestic courts' interference was "necessary in a democratic society")
Greece	03 May 2011	Anastassakos and Others (no 41380/06) link	Alleged violation of Art. 6 § 2 and Art. 8 (the disclosure of a confidential report to the media allegedly violated the applicants' right to respect for their private life and their right to be presumed innocent), Art. 13 (lack of an effective remedy)	Partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 8), partly inadmissible as manifestly ill-founded (the applicants had domestic remedies at their disposal which they failed to resort to, concerning the remainder of the application)
Hungary	10 May 2011	Baranyai (no 1503/08) link	Alleged violation of Art. 3 (a penitentiary officer had allegedly handcuffed the applicant to a pipe of the Prison Hospital's heating system situated in the corridor after a leg surgery)	Inadmissible for non-exhaustion of domestic remedies
Latvia	03 May 2011	Treimanis (no 7108/06) link	Alleged violation of Art. 3 (alleged ill-treatment of the applicant by police officers in a short-term detention unit)	Struck out of the list (the applicant no longer wished to pursue his application)
Latvia	10 May 2011	Pancers (no 6670/06) link	Alleged violation of Art. 3 (alleged degrading character of detention), Art. 5 (unlawful and long detention), Art. 6 (unlawfulness and excessive length of proceedings), Art. 8 (the applicant's complaints to various institutions were never sent to their addressees, Art. 10 (the Latvian authorities had allegedly fabricated the criminal case against the applicant solely for the reason of his active civic position and in particular because he had gathered evidence of high-level corruption in Latvia), Art. 13 (lack of an effective remedy)	Partly adjourned (concerning the legality, length and review of the applicant's detention on remand, and the length of criminal proceedings against him), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Lithuania	10 May 2011	Česnulevicius (no 41922/06) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings), Art. 13 (lack of an effective remedy), Art. 10 (the applicant convicted for expressing his opinions)	Partly incompatible <i>ratione materiae</i> (concerning claims under Art. 13), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Poland	03 May 2011	Czubernat (no 53524/08) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (unilateral declaration of Government)
Poland	03 May 2011	Kokociński (no 11747/09) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)

Poland	03 May 2011	Hoszowska (no 40992/09) link	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Poland	03 May 2011	Cygan (no 10872/10) link	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Poland	10 May 2011	Grzesikiewicz (no 35819/06) link	Alleged violation of Art. 5 § 3 (excessive length of pre-trial detention), Art. 8 (the applicant had not been allowed to be visited by his wife in prison, monitoring of the applicant's correspondence)	Partly struck out of list (unilateral declaration of Government concerning the monitoring of the applicant's correspondence), partly inadmissible for non-exhaustion of domestic remedies (concerning claims under Art. 5 § 3), partly inadmissible as manifestly ill-founded (failure to substantiate complaints concerning the remainder of the application)
Romania	03 May 2011	Amzuică (no 16173/04) link	Alleged violation of Art. 1 of Prot. 1 (the applicant's absolute and exclusive right of property in respect of a plot of land was allegedly infringed by the Romanian authorities' refusal to recognise her property right over the sheds erected on her land and the recognition of the right to use her land on the part of the State)	Inadmissible for non-exhaustion of domestic remedies
Romania	10 May 2011	Georgescu and Mănescu (no 2425/04) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 5 (unlawful pre-trial detention) Articles 6 § 1, 7 and 13 (infringement of the right to a fair trial, the assessment of facts and law, and a lack of an effective remedy against the courts' decisions), Art. 3 (mental suffering due to the excessively long proceedings)	Partly struck out of list (unilateral declaration of Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Romania	10 May 2011	Sabău-Pop (no 5659/04) link	Alleged violation of Art. 6 §1 (excessive length of proceedings) and Art. 13 (lack of an effective remedy)	Partly inadmissible as manifestly ill-founded (reasonable length of proceedings concerning claims under Art. 6 § 1 and partly for a lack of an "arguable claim", concerning claims under Art. 13)
Slovenia	10 May 2011	Leljak and Others (no 28180/05; 38903/05 etc.) link	In particular alleged violation of Art. 6 (excessive length and unfairness of civil proceedings), Art. 13 (lack of an effective remedy), Art. 1 of Prot. 1, Art. 14	Partly struck out of list (it is no longer justified to continue the examination of the application concerning length of proceedings as all the applicants received the State Attorney's Office's settlement proposals), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Sweden	10 May 2011	Dautaj (no 61109/08) link	No information provided by the Court's web portal	No information provided by the Court's web portal
the Netherlands	10 May 2011	Isse Seck (no 6781/06) link	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Somalia)	Struck out of the list (after the applicant's death, no heir have expressed the wish to continue the application)
Ukraine	10 May 2011	Rodivilov (no 49876/07) link	Alleged violation of Art. 6 (unfairness of proceedings), Art. 10 (the national courts had allegedly failed to protect the applicant's honour, dignity and reputation by rejecting his defamation claim)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Ukraine	10	Meshcheryako	Alleged violation of Articles 3, 6 §§	Struck out of the list (friendly

	May 2011	and Others (no 40944/07; 32571/08 etc) link	1-3 (c), 8 and 14, Art. 1 of Prot. 1 and Art 1 of Prot. 12	settlement reached)
Ukraine	10 May 2011	Kasparyants (no 15678/07) link	Alleged violation of Articles 6 § 1 and 13 and Art. 1 of Prot. 1 (excessive length and outcome of proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)

C. The communicated cases

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

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

- on 16 May 2011: [link](#)
- on 23 May 2011: [link](#)

The list itself contains links to the statement of facts and the questions to the parties. This is a tool for NHRSs to be aware of issues involving their countries but also of other issues brought before the Court which may reveal structural problems. Below you will find a list of cases of particular interest identified by the NHRS Unit.

NB. The statements of facts and complaints have been prepared by the Registry (solely in one of the official languages) on the basis of the applicant's submissions. The Court cannot be held responsible for the veracity of the information contained therein.

Please note that the Irish Human Rights Commission (IHRC) issues a monthly table on priority cases before the European Court of Human Rights with a focus on asylum/ immigration, data protection, anti-terrorism/ rule of law and disability cases for the attention of the European Group of NHRIs with a view to suggesting possible amicus curiae cases to the members of the Group. Des Hogan from the IHRC can provide you with these tables (dhogan@ihrc.ie).

Communicated cases published on 16 May 2011 on the Court's Website and selected by the NHRS Unit

The batch of 16 May 2011 concerns the following States (some cases are however not selected in the table below): France and Ukraine.

<u>State</u>	<u>Date of Decision to Communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
France	26 Apr. 2011	Y.M.H. no 25175/11	Alleged violation of Art. 3 – Alleged risk of being subjected to ill-treatment if expelled to Sudan – Alleged violation of Art. 13 – Lack of an effective remedy
Ukraine	28 Apr. 2011	Kulish no 35093/07	Alleged violations of Art. 3 (substantive and procedural) – (i) Alleged ill-treatment by the police – (ii) Lack of an effective investigation
Ukraine	28 Apr. 2011	Yeremenko no 22287/08	Alleged violation of Art. 10 – Interference with the applicant's right to freedom of expression on account of his conviction for defamation, for a published article concerning a matter of general interest

Communicated cases published on 23 May 2011 on the Court's Website and selected by the NHRS Unit

The batch of 23 May 2011 concerns the following States (some cases are however not selected in the table below): Belgium, Denmark, France, Greece, Italy, Moldova, Romania, Russia, "the former Yugoslav Republic of Macedonia", the Netherlands, the United Kingdom and Turkey.

<u>State</u>	<u>Date of Decision</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
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	<u>to Communi- cate</u>		
Denmark	06 May 2011	B.A.S. no 32936/10	Alleged violation of Art. 3 – The applicant's alleged unlawful deportation to Greece – Alleged violation of Article 13 – Lack of an effective remedy
Denmark	06 May 2011	K.A. no 50990/10	Alleged violation of Art. 3 – The applicant's alleged unlawful deportation to Greece – Alleged violation of Article 13 – Lack of an effective remedy
the Netherlands	06 May 2011	S.Y. and S.K. no 27465/11	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Iraq – Alleged violation of Art. 8 – Alleged violation of the applicants' right to respect for their private and family life if expelled
the United Kingdom	03 May 2011	H.N. no 56676/10	Alleged violation of Articles 2 and 3 – Risk of being killed or subjected to ill-treatment if expelled to Afghanistan
the United Kingdom	03 May 2011	Wacey-Germaine no 71308/10	Alleged violation of Art. 8 – Alleged unlawfulness of the applicant's and her children's eviction – Alleged interference with the applicant's right to respect for her family life or home
Turkey	05 May 2011	Yalçinkaya and 18 Other applications no 25764/09	Alleged violation of Art. 6 § 1 – Hindrance to the applicants' right to form a cassation appeal – Alleged violation of Art. 10 – The applicants' conviction for having used the word "sayın" in respect of Abdullah Öcalan, a former chief of the PKK, an unlawful organisation

Part II: The execution of the judgments of the Court

A. New information

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

B. General and consolidated information

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2008 on its supervision of judgments, please refer to the Council of Europe's web site dedicated to the execution of judgments of the European Court of Human Rights:

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

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

http://www.coe.int/t/e/human_rights/execution/02_Documents/PPIndex.asp#TopOfPage

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

A. European Social Charter (ESC)

The Committee of Ministers adopts a new resolution (09.05.2011)

The Committee of Ministers adopts a new resolution in the case Centre on Housing Rights and Evictions (COHRE) v. Croatia further to the [decision on the merits](#) of the *European Committee of Social Rights with regard to COHRE v. Croatia*, Complaint No. 52/2008, the Committee of Ministers adopted [Resolution CM/ResChS\(2011\)6](#) on 5 May 2011. ([read more](#)); [Collective Complaint web page](#)

A complaint is submitted against France by *Médecins du Monde* (18.05.2011)

The complaint was registered on 19 April 2011 and concerns the situation of Roma living in France in extreme poverty. The complainant organisation alleges that the rights of these persons with regard to housing, education for their children, social protection and health care are not respected by France. ([read more](#)); [Complaint no. 67/2011](#)

You may find relevant information on the implementation of the Charter in State Parties using the following country factsheets:

http://www.coe.int/t/dghl/monitoring/socialcharter/CountryFactsheets/CountryTable_en.asp

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

Council of Europe anti-torture Committee returns to the North Caucasian region of the [Russian Federation](#) (11.05.2011)

A delegation of the CPT has completed a ten-day ad hoc visit to the North Caucasian region of the Russian Federation. The visit, which began on 27 April 2011, was the CPT's 12th visit to this part of the Russian Federation since the year 2000. In the course of the visit, the delegation examined the treatment of persons deprived of their liberty by law enforcement agencies in the Republic of Dagestan, the Chechen Republic and the Republic of North Ossetia-Alania. In this context, the carrying out of investigations vis-à-vis allegations or information indicative of ill-treatment of detained persons by law enforcement officials was discussed with the relevant authorities in the region. The delegation also reviewed conditions of detention in the main pre-trial establishments (SIZOs) in each of the three Republics. During the visit, the CPT's delegation held discussions with the Head of the Republic of Dagestan, Magomed salam MAGOMEDOV. Further, the delegation met the Minister of Internal Affairs of the Republic of Dagestan, Abdurashid MAGOMEDOV, and the Minister of Internal Affairs of the Chechen Republic, Ruslan ALKHANOV, as well as the Acting Minister of Internal Affairs of the Republic of North Ossetia-Alania, Kazbek BEKMURZOV. The delegation also had the opportunity to meet the leadership of the Prosecution Service, Investigative Committee and Directorate of the Federal Service for the Execution of Punishments (FSIN) in each of the three Republics, and met doctors from the Bureaux of Forensic Medicine in the Republic of Dagestan and the Chechen Republic. The delegation also met representatives of various non-governmental organisations active in areas of interest to the CPT. The issues examined by the CPT's delegation during the visit are the subject of an ongoing dialogue with the federal authorities of Russia. At a meeting in Moscow on 6 May 2011 with the Deputy Minister of Justice of the Russian Federation, Alexander SMIRNOV, the CPT's delegation provided its preliminary observations as regards conditions of detention in the SIZOs visited. The delegation also met the Chairman of the Council of the President of the Russian Federation on Development of Civil Society and Human Rights, Mikhail FEDOTOV. High-level talks will be organised shortly to discuss the delegation's findings as regards law enforcement agencies and investigations into possible ill-treatment.

Council of Europe anti-torture Committee publishes report on [Lithuania](#) (19.05.2011)

The CPT has published on 19 May the [report on its most recent visit to Lithuania](#), which took place from 14 to 18 June 2010, together with the [response of the Lithuanian Government](#). Both documents have been made public at the request of the Lithuanian authorities. One of the main objectives of the visit was to examine the measures taken by the Lithuanian authorities to implement the recommendations made by the CPT after its 2008 visit to Kaunas Juvenile Remand Prison. The Committee's delegation observed that the material conditions of detention in the establishment had considerably improved, but that much remained to be done with regard to the activities offered to remand prisoners. The visit also provided an opportunity to review the manner in which detained persons are treated by the police; the observations made during the visit tend to confirm the positive trend in this area already noted by the CPT in 2008. However, the delegation found that little progress had been made as regards safeguards against ill-treatment and conditions of detention in police establishments. Another issue addressed by the CPT's delegation was the alleged existence some years ago on Lithuanian territory of secret detention facilities operated by the Central Intelligence Agency (CIA) of the United States of America. The delegation looked into the conduct of the pre-trial investigation which had been launched in relation to this matter and also visited two facilities that had been identified in this context.

C. European Commission against Racism and Intolerance (ECRI)

Seminar of the Council of Europe's Anti-Racism Commission (ECRI) for national independent authorities combating discrimination in employment (26-27.05.2011)

ECRI organised a seminar for national independent authorities combating discrimination in employment. The participants were representatives of member States' independent authorities (national Specialised Bodies) combating racism and discrimination on grounds of ethnic origin, colour, citizenship, religion and language, members of ECRI, representatives of national Ombudspersons, NGOs and international organisations, as well as national experts. Participants examined racism and discrimination in employment based on grounds of ethnic origin, colour, citizenship, religion and language. The seminar's specific objectives were the following: to explore the latest legislative developments at national and European level and the *lacunae* of the normative framework in the field; to identify any problems of implementation of the corresponding standards; to allow national Specialised Bodies to share their relevant experience and good practices.

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

Romania: receipt of the third cycle State Report (16.05.2011)

Romania submitted on 16 May 2011 its third [state report](#) in English, due on 1 February 2009, pursuant to Article 25, paragraph 1, of the Framework Convention for the Protection of National Minorities. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers.

E. Group of States against Corruption (GRECO)

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

On-site evaluation visit to Latvia completed (09-14.05.2011)

A MONEYVAL team of evaluators visited Latvia from 9 to 14 May 2011 under the fourth evaluation round. The visit was coordinated by the Control Service, the Financial and Capital Market Commission and the Ministry of Justice. The team met with the Chairwoman of the Financial and Capital Market Commission, Mrs Irena Krumane, as well as representatives from 23 organisations and agencies including law enforcement agencies, government departments, financial services supervisors, associations and the private sector. The meetings were held in Riga. A key findings document was discussed with the Latvian authorities and left with them at the conclusion of the mission. The draft report will now be prepared for review and adoption by MONEYVAL at its 38th Plenary meeting (Spring 2012). MONEYVAL's fourth round evaluations are more focussed and primarily follow up the recommendations made in the 3rd round. Evaluation teams in the fourth round examine key, core and other important Financial Action Task Force (FATF) Recommendations, as well as Recommendations which were previously rated "non compliant" or "partially compliant". Evaluations are complemented by issues linked to the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing in accordance with MONEYVAL's terms of reference.

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

1st Evaluation Round: GRETA visits Moldova (16.05.2011)

A delegation of the Council of GRETA carried out a visit to Moldova from 10 to 13 May 2011 in order to prepare its first monitoring report on the fight against human trafficking in this country. This was the ninth country visit carried out in the context of the first round of evaluation of the implementation of the *Council of Europe Convention on Action against Trafficking in Human Beings*. During the visit, the GRETA delegation held meetings with Mr Alexei ROIBU, Minister of the Interior, Mr Iurie LEANCĂ, Minister of Foreign Affairs and European Integration, Mr Oleg EFRIM, Minister of Justice, Mr Mihai MOLDOVAN, Deputy Prime Minister and President of National Council for Child Protection and with other senior officials from relevant ministries and public bodies. Further, discussions were held with representatives of non-governmental organisations active in combating trafficking in human beings and protecting human rights and representatives of the International Organisation for Migration (IOM), the United Nations Development Program (UNDP) and the Organisation for Security and Co-operation in Europe (OSCE) in Moldova. In addition, the GRETA delegation visited the Centre for Protection of Victims of Trafficking in Human Beings in Chisinau, the Centre for Temporary Detention of Foreigners of the Bureau for Migration and Asylum, and the Centre for the Protection and Assistance of Vulnerable Women in Causeni district. On the basis of the information gathered during the visit and the Moldovan authorities' reply to the questionnaire, GRETA will prepare a draft report containing its analysis of the implementation of the Convention by Moldova, as well as suggestions for possible improvements and further action. This draft report shall be transmitted to the Moldovan Government for comments before GRETA prepares its final report, which will be made public along with eventual comments by the Government.

Part IV: The inter-governmental work

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

11 May 2011

Austria, Finland, France, Germany, Greece, Iceland, Luxembourg, Montenegro, Portugal, Slovakia, Spain, Sweden and Turkey have signed the Council of Europe Convention on preventing and combating violence against women and domestic violence ([CETS No. 210](#)).

16 May 2011

Cyprus signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority ([CETS No. 207](#)).

17 May 2011

Romania ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#)).

18 May 2011

Luxembourg ratified the Council of Europe Framework Convention on the Value of Cultural Heritage for Society ([CETS No. 199](#)).

20 May 2011

Austria ratified the European Social Charter (Revised) ([ETS No. 163](#)).

Finland accepted the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems ([ETS No. 189](#)).

B. Recommendations and Resolutions adopted by the Committee of Ministers

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C. Other news of the Committee of Ministers

"Living Together": Council of Europe Eminent Persons' report (11.05.2011)

On behalf of the Council of Europe Group of Eminent Persons, Javier Solana Madariaga presented the report "Living Together": Combining diversity and freedom in 21st-century Europe, to the Committee of Ministers session meeting in Istanbul. Taking stock of the challenges arising from the resurgence of intolerance and discrimination in Europe, the report analyses "the threat" and proposes "the response" for "living together" in open European societies. [Report](#); [File](#)

New Council of Europe convention to prevent and combat violence against women (11.05.2011)

The new Convention on preventing and combating violence against women and domestic violence has been opened for signature at the 121st Session of the of Committee of Ministers, in Istanbul. This new treaty is the first legally binding instrument in the world creating a comprehensive legal framework to protect women against all forms of violence.

Chairmanship of the Committee of Ministers – Ukraine presents its priorities (11.05.2011)

Ukraine has taken over the chairmanship of the Committee of Ministers of the Council of Europe for the next six months. Within the framework of its Chairmanship, Ukraine will focus on the following priorities: Protection of children's rights; Human rights and the rule of law in the context of democracy and stability in Europe; Strengthening and developing local democracy.

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

Council of Europe's Committee of Ministers meet in Istanbul (11.05.2011)

The Ministers for Foreign Affairs of the Council of Europe's 47 member States met in Istanbul on Wednesday 11 May. Turkish Foreign Minister, Ahmet Davutoglu, chaired the meeting. Items on the agenda included: Activity report by the Secretary General - The Council of Europe: a strategy for values in action; European Convention on Human Rights; "Living together in 21st century Europe" – Report of the Group of Eminent Persons; Neighbourhood policy of the Council of Europe. At the end of the session Ukraine took over the chairmanship of the Committee of Ministers from Turkey for the next six months. [Declaration by Ahmet Davutoglu, outgoing Chair, and Kostyantyn Gryshchenko, incoming Chair of the Committee of Ministers](#); [Photo gallery](#); [File](#)

Local and regional democracy: a priority for the Ukrainian Chairmanship (16.05.2011)

At its meeting in Antalya, on 13 May, the Bureau of the Congress welcomed the priorities presented by the new Chairmanship of the Council of Europe Committee of Ministers, which underline the importance of local and regional democracy in Europe. "The priorities presented confirm the need to strengthen the democratic process at local and regional level", said Congress President Keith Whitmore.

Part V: The parliamentary work

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

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

➤ *Countries*

Parliamentary elections in Turkey: statement by the PACE pre-electoral delegation (18.05.2011)

A four-member, cross-party delegation of PACE making a pre-electoral visit to Turkey ahead of the 12 June parliamentary elections has welcomed the sound economic progress achieved in Turkey since the 2007 parliamentary elections. "There is a vibrant civil society in the country and, in a welcome development – since electronic media can now broadcast in languages other than Turkish only – campaigning is now allowed in those languages as well. The Supreme Board of Elections (SBE) is acting in an efficient and transparent manner and, seemingly, in full compliance with the letter of the law. Some legislative amendments introduced since 2007, albeit not yet all-encompassing, have paved the way for a better and more transparent electoral process. At the same time the media, while generally believed to be free, are reportedly applying self-censorship for fear of falling victim to a broad interpretation of the anti-terrorist legislation. The candidate registration process, even though carried out in accordance with the letter of the existing legislation, has resulted in a situation where a number of candidates were initially denied registration, a decision promptly reversed by the SBE with regard to some of those candidates after a public uproar. This is a clear indication that the relevant legal basis is in need of further improvements. In addition, the application of the relevant legislation must be carried out in good faith. Reports of growing tension, violence, harassment, imprisonment and detention of Kurdish opposition supporters, including elected officials, and a loss of life in the east and south-east of the country give rise to grave concerns. We call upon all political stakeholders to refrain from acts of violence. Overall, it is widely believed that while the elections will be free, their fairness is open to improvement, not least given the unequal conditions for the contenders. In this regard, the ten per cent threshold, by far the highest among the Council of Europe member States, remains the central issue that limits the representative nature of the legislature.

PACE delegation visits Lampedusa to assess situation of 'boat people' (18.05.2011)

A five-member delegation of parliamentarians from the Committee on Migration, Refugees and Population of PACE visited the Italian island of Lampedusa on 23-24 May as part of its assessment of the large-scale arrival of irregular migrants, asylum seekers and refugees on Europe's southern shores. The cross-party delegation will aim to evaluate the challenges faced by the Italian authorities and those of the local Lampedusa community in receiving large numbers of "boat people". The parliamentarians will analyse the reception conditions and treatment of the arrivals, and will discuss recent reports that appeals for rescue from some "boat people" heading for Europe have been ignored, leading to many avoidable deaths. The delegation will also be looking how far other EU countries could and should share responsibility for dealing with these large-scale arrivals, ahead of two major plenary debates on these topics during the Assembly's summer session.

Elections in 'the former Yugoslav Republic of Macedonia': declaration of PACE pre-electoral mission (19.05.2011)

The Council of the PACE pre-electoral delegation visited Skopje on 17-18 May to assess the state of preparations and the political climate prior to the early parliamentary elections in "the former Yugoslav Republic of Macedonia" on 5 June 2011. The pre-electoral delegation noted that the amended Electoral Code, if properly implemented, could ensure a sound legal framework for the holding of democratic elections. Nevertheless, it believes that modifying existing laws is not enough. Changes in

^{*} No work deemed relevant for the NHRSSs for the period under observation

election legislation should be supported by the clear will of the main political actors, demonstrated by concrete actions to create a climate of confidence. The citizens of this country have the right to be informed in an honest and objective manner about the ideas and programmes of the political parties before giving them their mandate. In this regard, concerning the role of the media in these elections, the pre-electoral delegation considers that the news reporting environment should be much calmer, more tolerant and neutral, and that the media should avoid becoming a means of propaganda for business interests, political parties or the government. The delegation was informed about concerns regarding possible violence, cases of intimidation, especially in public administration, the misuse of administrative resources and the need to ensure normal conditions for the free expression of the will of citizens. The delegation has been assured by the authorities of "the former Yugoslav Republic of Macedonia" that all measures will be taken to avoid election-related irregularities. Inter-ethnic tensions in general increase during election campaigns and the delegation therefore underlines the fact that all political actors bear a great responsibility when elections take place in a multi-ethnic society.

Albania: PACE co-rapporteur calls on all sides to remain calm and respect the legal process (20.05.2011)

The Assembly's co-rapporteur for Albania, Thomáš Jirsa (Czech Republic, EDG), has expressed his concern about the growing tensions in the country over the mayoral election in Tirana and called upon all sides to remain calm and move away from confrontation. "I am following developments in Albania closely and with grave concern. I call upon both sides to avoid escalating the situation and to fully respect the legal framework for the resolution of election complaints and appeals," said Mr Jirsa, adding that he intended to visit Tirana soon after the results of the elections have been announced in order to discuss recent developments with the relevant political players and other partners.

➤ Themes

The Istanbul Convention: a landmark on the way to gender equality (11.05.2011)

"Today the Council of Europe has established a crucial landmark on the way to ensuring the equal enjoyment of human rights by women and men," said José Mendes Bota (Portugal, EPP/CD), Chairperson of PACE's Committee on Equal Opportunities for Women and Men, speaking in Istanbul, where he was taking part in the ceremony for the opening for signature of the Council of Europe Convention on preventing and combating violence against women and domestic violence. "Violence against women is a human rights violation which thrives on gender discrimination and unequal power relations between women and men in society. The Istanbul Convention places a powerful tool into the hands of states for eradicating this evil, saving millions of victims and delivering justice." "I am delighted that 13 Council of Europe member States – including Turkey, the current Chair of the Committee of Ministers – have taken the lead in signing the Convention this morning. This is an important political sign that violence against women and domestic violence must end. I call on all Council of Europe member States and the European Union to become parties to our Convention as soon as possible, so that its great potential is exploited to the full." "For its part, the PACE network of contact parliamentarians committed to combating violence against women stands ready to support the Istanbul Convention, with a view to promoting its signature, ratification and effective implementation by the largest possible number of states, and to carry out visibility and awareness-raising activities amongst the general public." [PACE opinion on the Convention](#)

Kyiv: speech by PACE Vice-President at the opening of the international conference on combating violence against children (19.05.2011)

PACE Vice-President Ivan Popescu (Ukraine, SOC) gave a speech on 24 May in Kyiv at the opening of the Conference on combating violence against children to be held in the context of the Ukrainian Chairmanship of the Council of Europe Committee of Ministers. The aim of the conference was to gather information on good practices in implementing integrated national strategies to safeguard children's rights. Members of the PACE Sub-Committee on Children and its Chair, Carina Ohlsson (Sweden, SOC), also took part in this event. [Programme](#)

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

A. Country work

Armenia: “More efforts are needed to strengthen human rights protection” (09.05.2011)

“Some significant steps have been taken to address the human rights consequences of the March 2008 events, but more needs to be done to promote reconciliation in society and reinforce public trust towards the authorities”, said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing today a report on his visit to Armenia carried out in January 2011. The report focuses on human rights issues related to the March 2008 events, freedom of expression and freedom of assembly and association, and the human rights situation in the army. The Commissioner considers that the use of force on 1-2 March 2008 was excessive and that the investigation into the ten deaths has not been effective. [Read the report](#)

B. Thematic work

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

Part VII: Activities and news of the Peer-to-Peer Network (under the auspices of the NHRS Unit of the Directorate General of Human Rights and Legal Affairs)

A delegation from Turkey on study visit to (Paris 10-12 May 2011)

Five representatives of the Directorate General of Prisons and Detention Houses, of the Ministry of Justice of Turkey, including the Director General, visited the Prison Administration of France (Direction de l'Administration Pénitentiaire) with the aim of exchanging information and practices on overall management and coordination structures for prisons, content of services provided within prisons as well as the best practices employed therein. Five prisons were also visited in and around Paris and information meetings were held with French penitentiary services' officials. This study visit is organised within the framework of the Joint Programme between the European Union and the Council of Europe entitled **"Dissemination of Model Prison Practices and Promotion of Prison Reform in Turkey"**, to assist the Turkish authorities in developing the prison system, based on the rule of law and respect for fundamental rights and European democratic values and standards.

A delegation from Georgia on a study visit to Paris (17-20.05.2011)

A study visit of Georgian officials to the Ministries of Justice (Ministère de la justice, Direction de l'administration pénitentiaire) and Health Care (Ministère du travail, de l'emploi et de la santé) of France took place from 17 to 20 May 2011. The visit is organised within the framework of the project "Promotion of Judicial Reform, Human and Minority Rights in Georgia in Accordance with Council of Europe Standards" thanks to a generous voluntary contribution by the Government of Denmark. The study visit aims at the facilitating the reform of health care services in the penitentiary system of Georgia in accordance with the Council of Europe standards; to support the sharing of experiences regarding the transfer of the penitentiary health care system from the Ministry of Justice to the Ministry of Health Care of France and managing of the primary health care in the penitentiary system in the country. During the visit, members of the delegation from the Ministries of Correction and Legal Assistance and Labour, Health and Social Affairs of Georgia will see different penitentiary institutions and hospitals serving prisoners, as well as meet and discuss prison health related issues with their counterparts from the Ministries of Justice and Health Care of France.

Enhancing judicial reform in the Eastern Partnership countries Project (18.05.2011)

The first meeting within the framework of the Joint Project entitled "Enhancing judicial reform in the Eastern Partnership countries" took place on 18 May 2011. The meeting was attended by delegates from Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus. The participants represented national High Judicial Councils, Supreme Courts, Ministries of Justice, Bar Association and Training Centres for judges. The purpose of the meeting was to discuss the most problematic issues relating to independence of the judiciary issue and common for all beneficiary countries and select those on the basis of which the future expert groups will work out their Recommendations with a view to increasing independence, efficiency and professionalism of the judicial systems of Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus.