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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 Directorate of Human Rights*

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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 Directorate of Human Rights carefully selects and tries to present in a user-friendly manner. The information is sent to the Contact Persons in the NHRs who are kindly asked to dispatch it within their offices.

Each Issue covers two weeks and is sent by the Directorate of Human Rights 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.

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

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

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

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

A. Judgments

1. Judgments deemed of particular interest to NHRs

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 NHRs. 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 Directorate of Human Rights, is based on the [press releases of the Registry of the Court](#).

Some judgments are only available in French.

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

Note on the Importance Level:

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

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

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

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

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

- **Right to life**

Panaiteescu v. Romania (application no. 30909/06) – Importance 2 – 10 April 2012 – Violation of Article 2 – Domestic authorities' failure to enforce a judgment recognising the applicant's right to free medication

The applicant alleged that the authorities had cynically and abusively refused to enforce final court decisions acknowledging his right to appropriate free medical treatment, and that that had not only put his father's life at risk, but had caused him deep psychological suffering.

The Court noted in particular that the applicant had been entitled under the relevant law to receive free medication and medical assistance with priority. That right had been acknowledged by the domestic courts in a June 2002 judgment. It had also later been confirmed by another judgment of December 2005, in which the court ordered the State authorities to provide him with the prescribed anti-cancerous treatment and reimburse him any costs that he had incurred for that medication. Although he had been entitled to receive the necessary medication for free, this right had been repeatedly contested by the health authorities, mainly on bureaucratic grounds. As a result, he had been unable to properly continue his treatment, as the authorities had not provided it to him despite his grave and advanced illness. Consequently, the Court concluded that, in the circumstances, the State had failed to prevent the risk to the applicant's life by not providing him with the appropriate health-care as ordered by the national courts. There had, therefore, been a violation of Article 2.

Under Article 41 (just satisfaction), the Court held that Romania was to pay EUR 20,000 in respect of pecuniary and non-pecuniary damages.

[İlbeyi Kemaloğlu and Meriye Kemaloğlu v. Turkey](#) (application no. 19986/06) – Importance 1 – 10 April 2012 – Two violations of Article 2 (substantive and procedural) – (i) Domestic authorities’ failure to prevent the death of the applicants’ son by neglecting to inform the municipality’s shuttle service about the early closure of school on a day of blizzard ; (ii) lack of an effective investigation and excessive length of proceedings – Violation of Article 6 § 1 – Failure of the domestic legal aid system to offer individuals substantial guarantees to protect them from arbitrariness

The case concerned the applicant’s seven-year old son who froze to death while trying to walk back home, on a day when school classes ended earlier due to a blizzard and the municipality shuttle did not come on time. The applicants complained that the State had failed to protect their son’s life and to hold accountable those responsible for his death. They further complained about the refusal to grant them legal aid for their compensation case.

Article 2

The Court reiterated that not every risk to life obliged the authorities to take operational measures to prevent that risk from materialising. Nevertheless, in this case, by neglecting to inform the municipality’s shuttle service about the early closure of the school, the Turkish authorities had failed to take measures which might have avoided a risk to the applicants’ son’s life. As to the legal remedies available to establish the facts, hold accountable those at fault and provide appropriate redress to the applicants, the Court observed that the refusal of their legal aid request had deprived them of the possibility of submitting their case before a tribunal. Furthermore, although eight years had elapsed since the incident, the criminal proceedings were still pending before the Court of Cassation. The Court concluded that the Turkish courts had failed to hold accountable those responsible for the applicants’ son death and to provide appropriate redress to his parents, both because of the excessive length of the related proceedings as well as of their inability to bring compensation proceedings due to the refusal of their legal aid claim. The authorities had consequently not displayed due diligence in protecting the right to life of the applicants’ seven-year-old son, in violation of Article 2.

Article 6 § 1

The Court had already examined similar grievances in the past and found a violation of Article 6 § 1 on the ground, in particular, that the legal aid system in Turkey had failed to offer individuals substantial guarantees to protect them from arbitrariness. The Court found that there was no reason to depart from these findings in the present case, in which there had been a disproportionate restriction on the applicants’ right of access to a court as the refusal of their legal aid request had deprived them of the possibility of submitting their case before a tribunal, in violation of Article 6 § 1.

Article 41 (just satisfaction)

The Court held that Turkey was to pay the applicants EUR 50,000 in respect of non-pecuniary damages and EUR 4,500 in respect of costs and expenses.

[Sašo Gorgiev v. “the Former Yugoslav Republic of Macedonia”](#) (no. 49382/06) – Importance 2 – 19 April 2012 – Violation of Article 2 – Domestic authorities’ failure to put in place and apply a system of adequate and effective safeguards designed to prevent abuse of official weapons by police officers

The case concerned a waiter who was shot in a bar by a police reservist who was supposed to be on duty in the police station. The applicant complained in particular that he had been a victim of a life-threatening action taken by a State official.

The Court noted that the parties had not contested the police officer’s flagrant noncompliance with the rules of work: he had left the police station during working hours without authorisation of his superiors and, while intoxicated, had put the applicant’s life at risk. He had been in uniform and had shot the applicant using his official gun. While accepting that the authorities could not have objectively foreseen the police officer’s behaviour, the Court underlined that the State had to put in place and rigorously apply a system of adequate and effective safeguards designed to prevent abuse of official weapons by its agents, in particular temporary mobilised reservists. Police officers in “the Former Yugoslav Republic of Macedonia” were however required to carry their weapons at all times, whether or not in duty, and the Government had neither provided it with information on regulations for the prevention of abuse of official weapons by its agents nor with information as to whether the police officer had been assessed to ensure that he was fit to be recruited and equipped with a weapon. The Court therefore considered that the State had been responsible for his life-threatening behaviour in the bar, in violation of Article 2.

Under Article 41 (just satisfaction), the Court held that “the Former Yugoslav Republic of Macedonia” was to pay the applicant EUR 3,390 in respect of pecuniary damages and EUR 12,000 in respect of non-pecuniary damages.

Crăiniceanu and Frumusanu v. Romania (in French only) (application no. 12442/04) – Importance 2 – 24 April 2012 – Violation of Article 2 – Lack of an effective and prompt investigation into the death of the applicants’ son and wife during a riot in front of a national authority building

The case concerned the deaths of the applicants’ wife and son who were shot during a riot in front of the Government building in Bucharest. 20 years after the events, the investigation has still not been completed. The applicants therefore complained that the investigation into their relatives’ death had not been effective, impartial and prompt.

The Court first noted that the investigation had been entrusted to military prosecutors who, like the accused, were in a relationship of subordination within the military hierarchy. The accused were also among the highest-ranking army officers still in active service. Furthermore, shortcomings in the investigation had been noted by the authorities themselves on several occasions. The Court also noted the lack of cooperation between the agencies involved in quelling the riots and the destruction of relevant evidence concerning the events, as testified by the special forces. The Court reiterated that deliberate concealment of evidence cast doubts on the ability of an investigation to establish the facts. While it did not underestimate the complexity of the case (according to the Government, the investigation report ran to 18 volumes totalling 4,383 pages), the Court considered that the overall socio-political context during the era in question was not sufficient in itself to justify the length of the investigation or the manner in which it had been conducted throughout the period concerned. The Court therefore held that there had been a violation of Article 2.

Under Article 41 (just satisfaction), the Court held that Romania was to pay each of the applicants EUR 30,000 in respect of non-pecuniary damages and EUR 1,000 in respect of costs and expenses.

Kleyn and Aleksandrovich v. Russia (no. 40657/04) – Importance 2 – 3 May 2012 – No violation of Article 2 (substantive) – No serious evidence to support the applicants’ allegation of ill-treatment in police custody – Violation of Article 2 (procedural) – Lack of an effective investigation into the applicants’ relative’s death while in police custody

The applicants’ partner and mother was arrested on a bus and taken to the local police station for questioning. About two and a half hours later her unconscious body was found in the police station courtyard. She died at the hospital four days later. The applicants alleged that their partner and mother had died as a result of ill-treatment in police custody and that her unconscious body had been placed in the police courtyard to make it look like she had tried to escape from a toilet window.

Article 2 (substantive)

The Court noted that there was no serious evidence to support the allegation that anyone had intentionally taken the applicants’ relative life.

Article 2 (procedural)

The Court noted in particular that no criminal investigation into the applicants’ relative’s death has ever been launched. The authorities refused to open an investigation on at least four occasions and the domestic courts even admitted that, on that account, her partner’s access to justice had been breached. Furthermore, one of the applicants had not apparently been notified of the first decision of June 2002 to not bring criminal proceedings, meaning he had only retained legal counsel to access the case file and lodge an appeal 18 months later, in December 2003. This loss of time had further undermined the adequacy of the investigation. The Court therefore concluded that the Russian authorities had not taken all reasonable steps to establish the circumstances in which the applicants’ partner and mother had died, in violation of Article 2.

Article 41 (just satisfaction)

The Court held that Russia was to pay the applicants EUR 20,000 in respect of non-pecuniary damage and EUR 5,320 for costs and expenses.

- **III-treatment / Conditions of detention / Deportation**

Babar Ahmad and Others v. the United Kingdom (application nos. 24027/07, 11949/08, 36742/08, 66911/09 and 67354/09) – Importance 1 – 10 April 2012 – No violation of Article 3 – The conditions and the length of detention in a “supermax” US prison does not amount to inhuman and degrading treatment

Between 1999 and 2006 all six applicants were indicted on various terrorism charges in the United States of America. On the basis of those indictments, the US Government requested each applicant's extradition from the United Kingdom. The applicants complained that their detention in the ADX Florence prison – a “super-maximum security” (supermax) prison in the USA – and the length of their possible sentence, would amount, if extradited, to an inhuman and degrading treatment.

The Court noted in particular that not all inmates convicted of international terrorism were housed at ADX and, even if they were, sufficient procedural safeguards were in place, such as holding a hearing before deciding on such a transfer. Furthermore, if the transfer process had been unsatisfactory, there was the possibility of bringing a claim to both the Federal Bureau of Prisons' administrative remedy programme and the US federal courts. As concerned ADX's restrictive conditions and lack of human contact, the Court found that, if the applicants were convicted as charged, the US authorities would be justified in considering them a significant security risk and in imposing strict limitations on their ability to communicate with the outside world. Besides, ADX inmates – although confined to their cells for the vast majority of the time – were provided with services and activities which went beyond what was provided in most prisons in Europe. Accordingly, the Court found that there would be no violation of Article 3 as concerned the possible detention at ADX supermax prison. As to the length of detention, and having regard to the seriousness of the offences in question, the Court did not consider that these sentences were grossly disproportionate or amounted to inhuman or degrading treatment. There would therefore be no violation of Article 3 in the case of extradition of the applicants to the USA.

Ali Güneş v. Turkey (application no. 9829/07) – Importance 2 – 10 April 2012 – Violation of Article 3 – Ill-treatment on account of the unwarranted spraying of tear gas into the applicant's face by policemen

The case concerned a complaint by a high-school teacher who took part in a demonstration against the 2004 NATO summit in Istanbul that the police had ill-treated him, including by spraying tear gas on him.

The Court noted that, although tear gas was not considered a chemical weapon by the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, the Council of Europe's Committee for the Prevention of Torture (CPT) had expressed concerns about the use of such gases in law enforcement. In particular, the CPT had recommended the drawing up of clear and specific rules about its usage, having warned that its use in confined spaces could be potentially dangerous. The Court concluded that the unwarranted spraying of the gas into the applicant's face had to have caused him intense physical and mental suffering. Consequently, he had been subjected to inhuman and degrading treatment.

Under Article 41 (just satisfaction), the Court held that Turkey was to pay the applicant EUR 10,000 in respect of non-pecuniary damages and EUR 1,500 for costs and expenses

Janowiec and Others v. Russia (nos. 55508/07 and 29520/09) – Importance 1 – 16 April 2012 – Violation of Article 38 – Domestic authorities' unjustified failure to provide the Court with a document it requested – Violation of Article 3 – Lack of an effective investigation into the death of the applicants' relatives during the Katyń massacre

The applicants are 15 Polish nationals who are the relatives of 12 victims of the Katyń massacre. The 12 victims were police and army officers, an army doctor and a primary school headmaster. Following the Red Army's invasion of the Republic of Poland in September 1939, they were taken to Soviet camps or prisons and were then killed by the Soviet secret police without trial, along with more than 21,000 others, in April and May 1940. They were buried in mass graves in the Katyń forest near Smolensk, and also in the Pyatikhatki and Mednoye villages. The applicants complained that the Russian authorities had not carried out an effective investigation into the death of their relatives and had displayed a dismissive attitude to all their requests for information about the dead people's fate.

Article 38

The Court noted the Russian Government's continuous refusal to produce a copy of the 2004 decision to discontinue the investigation into the Katyń massacre. It emphasised in that connection that the obligation to deliver documents had to be enforced irrespective of any findings that could be made in the proceedings and of their eventual outcome. The Court noted in particular that the Government's contention that the document could not be produced - as domestic laws and regulations prevented the

communication of classified documents - ran counter to the Vienna Convention on the Law of Treaties, according to which national law could not be cited to justify a State's failure to comply with a treaty. Finally, the Court could not see any legitimate security considerations which could have justified the keeping of that decision secret. Consequently, the Court concluded that Russia had breached its obligation under Article 38.

Article 3

The Court emphasised the difference between Article 2 and Article 3: under the former the authorities were obliged to take specific actions capable of leading to the identification and punishment of those responsible, while under the latter the authorities had to react to the plight of bereaved relatives in a humane and compassionate way. **It then found that the Convention did not prevent it from examining a State's compliance with its obligation under Article 3 even in cases where the death itself could not be examined because it had taken place before the Convention had entered into force.**

The Court found in particular that the applicants concerned had suffered a double trauma: losing their relatives in the war and not being allowed to learn the truth about their death for more than 50 years because of the distortion of historical facts by the Soviet and Polish communist authorities. In the post-ratification period, they had not been given access to the investigation's materials, nor had they otherwise been involved in the proceedings or officially informed of the outcome of the investigation. What was more, they had been explicitly prohibited from seeing the 2004 decision to discontinue the investigation on account of their foreign nationality. The Court was struck by the apparent reluctance of the Russian authorities to recognise the reality of the Katyń massacre. The approach chosen by the Russian military courts to maintain that their relatives had somehow vanished in the Soviet camps, demonstrated a callous disregard for the applicants' concerns and deliberate obfuscation of the circumstances of the Katyń massacre. Finally, the Court noted that the authorities' obligation to account for the fate of the missing people could not be reduced to a mere acknowledgment of their death. Under Article 3, the State had to account for the circumstances of the death and the location of the grave. However, the applicants had been left to bear the burden to uncover how their relatives had died, while the Russian authorities had not provided them with any official information about the circumstances surrounding the deaths, nor made any serious attempts to locate the burial sites of the relatives. Accordingly, the Court held that there had been a violation of Article 3 in respect of 10 of the applicants.

Article 41 (just satisfaction)

The Court decided that in the exceptional circumstances of the present case, the finding of a violation of Article 3 would constitute sufficient just satisfaction. As regards costs and expenses, the Court held that Russia was to pay the applicants up to EUR 5,000 for costs and expenses.

Judges Kovler and Yudkivska expressed a joint concurring opinion. Judge Kovler, joined by Judges Jungwiert and Zupančič expressed partly dissenting opinion. Judges Spielmann, Villiger and Nussberger expressed a joint partly dissenting opinion. Judges Jungwiert and Kovler expressed a joint partly dissenting opinion.

[Piechowicz v. Poland](#) (application no.20071/07) and [Horych v. Poland](#) (application no. 13621/08) – Importance 1 – 17 April 2012 – Violation of Article 3 – Inhuman and degrading treatment resulting from a special regime imposed on “dangerous detainees” – Violation of Article 8 – Disproportionate restriction on the applicants’ right to receive family visits in detention – Violation of Article 5 §§ 3 and 4 – Excessive length of pre-trial detention

Both cases concerned a regime in Polish prisons for detainees who are classified as dangerous. Both men complained that the “dangerous detainee” regime and the detention conditions, including the restrictions on visits, to which they are/were subjected was inhuman and degrading and breached their right to private and family life. One of the applicants also complained that he had been kept in pre-trial detention for more than four years without valid reasons and that the proceedings concerning the extension of his pre-trial detention (for setting up an organised criminal group) had not been adversarial as he was refused access to the investigation file.

Article 3

In both cases, the Court accepted that the initial decision to impose the “dangerous detainee” regime to the applicants had been a legitimate measure, given that they had been charged with serious offences. However, the Court could not accept that the continued, routine and indiscriminate application of the full range of measures, which the authorities were obliged to apply under the special regime, for a long duration - of two years and nine months and seven years and nine months, respectively - was necessary for maintaining prison security. According to the Court, the case fully confirmed the observations made by the European Committee for the Prevention of Torture and

Inhuman or Degrading Treatment or Punishment (CPT) in a 2009 report, which had found that the Polish authorities failed to provide inmates under the special regime with appropriate stimulation and adequate human contact. The Court therefore concluded that the duration and severity of the measures exceeded the requirements of prison security and that they were not in their entirety necessary. There had accordingly been a violation of Article 3 in both cases.

Article 8

The Court accepted that the authorities had to restrict the contact between the first applicant and his common-law wife, who had been charged and indicted in the same proceedings, in order to secure the process of obtaining evidence. However, the prolonged and absolute ban on contact with her had to have had a particularly serious and negative impact on his family life. If the authorities had been convinced that an "open visit", allowing direct physical contact and unrestricted conversation, could not be permitted to ensure the interests of the proceedings, they could have allowed a supervised visit without the possibility of direct contact. As to the second applicant, he was only allowed to receive between five and ten visits per year, and most of them were closed visits without the possibility of direct contact, as he was separated from the visitors by a partition. While the Court accepted that certain restrictions on contact with his family had been inevitable, it did not find that those restrictions, overall, struck a fair balance between the requirements of the special detention regime and his right to respect for his family life. The Court therefore concluded in both cases that the prolonged restrictions on family visits had violated the applicants' rights under Article 8.

Article 5 §§ 3 and 4

In the first applicant's case, the Court found a violation of Article 5 § 3 on account of the duration of his pre-trial detention of more than four years. The Court noted in particular that, while the severity of the sentence he faced, which had been given as a reason for his continued detention, was a relevant element in the assessment of the risk of absconding or re-offending, the gravity of the charges could not by itself justify long periods of detention on remand. Finally, the Court found a violation of Article 5 § 4 in the second applicant's case on account of the fact that he had been denied access to documents of the investigation file relating to the circumstances justifying his detention, without any measures being considered which could have counterbalanced that lack of disclosure.

Article 41 (just satisfaction)

The Court held that Poland was to pay the first applicant EUR 18,000 and the second applicant EUR 5,000 in respect of non-pecuniary damages

M.S. v. the United Kingdom (no. 24527/08) – Importance 2 – 3 May 2012 – Violation of Article 3 – Domestic authorities' failure to provide a mentally-ill person with adequate medical care while in police custody – No violation of Article 13 – Appropriate remedy available in domestic law

The applicant was arrested in 2004, after the police had been called to deal with him because, highly agitated, he was sitting in a car sounding its horn continuously. He remained in police custody for more than 72 hours, locked up in a cell where he kept shouting, taking off all of his clothes, banging his head on the wall, drinking from the toilet and smearing himself with food and faeces. The applicant complained about his being kept in police custody during a period of acute mental suffering while it had been clear that he was severely mentally ill and required hospital treatment as a matter of urgency. He also complained about the manner in which his case was examined.

Article 3

The Court noted in particular that the applicant had been in a state of great vulnerability throughout his detention at the police station. That situation, which persisted until his transfer to the clinic on the fourth day of his detention, diminished excessively his fundamental human dignity. Throughout that time, he had been entirely under the control of the State; the authorities had thus been responsible for the treatment he experienced. The Court accepted that the situation had arisen essentially out of difficulties of coordination between the relevant authorities when suddenly confronted with an urgent mental health case. However, even though there had been no intention to humiliate the applicant, the Court found that the conditions he had been required to endure had reached the threshold of degrading treatment for the purposes of Article 3. There had accordingly been a violation of that Article.

Article 13

The Court considered that an appropriate remedy had been available to the applicant under British law. The two courts which had considered his case had assessed it in relation to three possible remedies, including a claim for damages under the Human Rights Act. That the outcome had not been

favourable for him did not mean that the remedy was in principle ineffective. There had accordingly been no violation of Article 13.

Article 41 (just satisfaction)

The Court held that the United Kingdom was to pay the applicant EUR 3,000 in respect of non-pecuniary damages and EUR 8,150 for costs and expenses.

- **Right to a fair trial**

Lagardère v. France (no. 18815/07) – Importance 2 – 12 April 2012 – Violation of Article 6 § 1 – Infringement of the right to a fair trial on account of the applicant’s conviction to pay damages for his father’s criminal guilt, established only after his death – Violation of Article 6 § 2 – Infringement of the applicant’s father’s right to be presumed innocent on account of his conviction after his death

The applicant complained that he had been ordered, as his father’s successor, to pay damages because of his father’s criminal conduct even though it was only after his death that his father had first been found guilty by the Court of Appeal to which the case had been referred for retrial, when examining the civil action death. He also complained of a violation of his father’s right to be presumed innocent.

Article 6 § 1

The Court referred in particular to its case-law (see Colozza v. Italy) according to which a violation of the right to a fair trial occurred where a person convicted in absentia was unable subsequently to obtain a fresh determination of the merits of the charge from a court which had heard him: there was no doubt that this principle applied a fortiori when a person was convicted not in his absence but after his death. The Court noted that the civil liability of the applicant as his father’s successor was the direct result of the father’s conviction after his death. He had therefore not been in a position to validly challenge the existence or the value of the sums involved, which depended on the findings made by the Court of Appeal in the criminal proceedings. While reiterating that it was compatible with Article 6 for a criminal court to rule on the civil interests of the victim, the Court could not accept that criminal courts ruling on civil claims should pronounce the accused guilty of the criminal charges against him for the first time only after his death. There had accordingly been a violation of Article 6 § 1.

Article 6 § 2

The Court pointed out that the accused had died before his guilt had been legally established by a court, and that he had accordingly been presumed innocent while he was alive. The Court noted the existence of a link between the criminal proceedings and the claim for damages against the applicant, which made Article 6 § 2 applicable in this case. It was clear from the wording of the judgment that the Versailles Court of Appeal had found the applicant’s father guilty of the charges against him at a time when the proceedings had lapsed as a result of his death, and that his guilt had never been established by a court prior to his death. There had therefore been a violation of his right to be presumed innocent.

Article 41 (just satisfaction)

The Court held that France was to pay the applicant EUR 10,000 in respect of non-pecuniary damages and EUR 10,000 for costs and expenses.

Ilyushkin and Others v. Russia (applications nos. 5734/08 et seq.) and Kalinkin and Others v. Russia (nos. 16967/10 et seq.) – Importance 2 – 17 April 2012 – Violation of Article 13 – Domestic authorities’ failure to enforce judgments ordering the provision of housing to members of the Russian armed forces despite the adoption of new legislation – Violation of Articles 6 § 1 and Article 1 of Protocol 1 – Excessive length of proceedings amounting to an infringement of the applicants’ right to the peaceful enjoyment of their possessions

The cases concerned 50 members of the Russian armed forces and the excessive delays in enforcing judicial decisions ordering the Russian authorities to provide them with housing. The applicants complained of the failure to enforce judgments in their favour and of the absence of an effective remedy in Russia by which to challenge that state of affairs.

Article 13

While the 2010 Compensation Act was capable of providing an effective remedy in respect of non-enforcement of judicial decisions – and had in fact done so in respect of decisions requiring the State to pay sums of money out of public funds 5 – the Court noted with regret that this was not the case

with regard to other obligations imposed on the State as a result of judicial decisions. The few progressive interpretations of the Compensation Act in the decisions of some Russian courts remained the exception rather than the rule and had no prospect of prevailing over the settled case-law of the Supreme Court, which had quashed these decisions as being incompatible with the law. Accordingly, the Court noted once again that a large category of persons who had obtained final judicial decisions in their favour were still unable to secure redress before the Russian courts for non-enforcement or delayed enforcement of those decisions. It therefore held that there had been a violation of Article 13.

Article 6 § 1 and Article 1 of Protocol 1

The judgments in the applicants' favour had not been enforced in full, with some having been enforced with considerable delays. The Court considered that these delays, which ranged from two to ten years or more, amounted to a violation of Article 6 § 1. Furthermore, the Court reiterated that, where an individual was granted entitlement to housing under a final, enforceable judgment, he or she could claim to have a "possession" within the meaning of Article 1 of Protocol No. 1. The right to peaceful enjoyment of that possession had been infringed as a result of the above mentioned difficulties of enforcement. Accordingly, there had also been a breach of that provision in the applicants' cases.

Article 41 (just satisfaction)

The Court held that Russia was to pay the applicants from EUR 2,000 to EUR 9,000 in respect of non-pecuniary damages and from EUR 7 to EUR 925 in respect of costs and expenses.

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

Pontes v. Portugal (no. 19554/09) – Importance 2 – 10 April 2012 – Two violations of Article 8 – Domestic authorities' unjustified decisions to (i) withdraw the applicants' right to visit their child and to (ii) place the applicants' child for adoption

The case concerns parents who alleged a breach of their right to respect for their family life on account of decisions that led to one of their children being removed from them and ultimately adopted, their parental authority having been withdrawn.

The Court observed in particular that, contrary to his brother and sisters, the child concerned had never been authorised to spend holidays or weekends with his parents and that the parents' visits had been stopped by a Supreme Court's decision. The Court noted that the applicants had complained on several occasions about the withdrawal of their visiting rights but none of the courts had ruled on the matter, leading to the breakdown in the family relationship. The Court thus concluded that the withdrawal of the visiting rights was no longer based on sufficient and relevant reasons. Consequently, considering that the competent authorities were responsible for the breakdown in contacts between the child and the applicants and that they had failed to fulfil their positive obligation to take measures in order to allow the applicants to enjoy regular contact with their son, the Court found that there had been a violation of Article 8.

Secondly, and concerning the adoption procedure initiated in respect of the child, the Court found that there had been a contradiction in the assessment of the applicants' family situation, since it had led to two opposite decisions concerning the child on the one hand and his siblings on the other. In addition, the Court noted that despite the improvement in the parents' situation the domestic courts had never envisaged measures that would have been less radical than the adoption procedure in respect of the child in order to avoid the final and irreversible removal of the child, not only from his biological parents but also from his brother and sisters, thus triggering a break-up of the family and siblings that could not have been in the child's best interest. The Court thus found that the decision to place the child for adoption had not been based on relevant and sufficient reasons capable of justifying it as proportionate to the legitimate aim pursued and held, consequently, that there had been a second violation of Article 8 of the Convention.

Under Article 41 (just satisfaction), the Court held that Portugal was to pay the applicant EUR 32,500 in respect of pecuniary and non-pecuniary damages.

Judges Sajó and Pinto de Albuquerque expressed a joint partly concurring and partly dissenting opinion.

K.A.B. v. Spain (no. 59819/08) (in French only) – Importance 2 – 10 April 2012 – Violation of Article 8 – Domestic authorities' failure to ensure the respect of the applicant's right to be reunited with his son, who was adopted despite his father's opposition

The case concerned the adoption – despite the father's opposition – of a child who was declared abandoned after his mother's deportation. The applicant complained that he had been deprived of all contact with his son and that neither he nor the child's mother had been informed of the proposal to

adopt the child. He also complained that the authorities had remained inactive regarding the mother's deportation and his attempts to prove his paternity.

The Court took the view that the authorities' attitude had contributed in a decisive manner to preventing any reunion between father and son. Firstly, between his mother's deportation and the declaration of his abandonment, the child had remained for almost one month in a state of legal limbo. No steps had been taken by the authorities, neither when they were informed that the mother had a baby, nor between the deportation and the opening of the investigation. Furthermore, a judgment had established that the applicant had himself caused the child's abandonment by allegedly showing a lack of interest in the paternity suit. The Court noted that he had not been informed of the payment that he was supposed to make for the test, that the Child Protection Department had not told him that the test could be covered the legal aid scheme and that the authorities had not tried to make contact with him even though they knew where to find him. When the applicant obtained confirmation of his paternity, three and a half years had already passed since the authorities had taken over the child's guardianship. Accordingly, the authorities' inaction, the deportation of the mother without prior verification, the failure to assist the applicant when his social and financial situation was most fragile, and the failure of the courts to give weight to any other responsibility for the child's abandonment, had decisively contributed to preventing the possibility of reunion between father and son. As a result, the Court, whilst reiterating that it was for each State to choose how to ensure fulfilment of its obligations under Article 8, concluded that the Spanish authorities had not made appropriate or sufficient efforts to ensure respect for the applicant's right to be reunited with his son, thus breaching his right to respect for his private life, in violation of Article 8.

Under Article 41 (just satisfaction), the Court held that Spain was to pay the applicant EUR 8,000 in respect of non-pecuniary damages.

Stübing v. Germany (no. 43547/08) – Importance 2 – 12 April 2012 – No violation of Article 8 – In the absence of a consensus within the member States of the Council of Europe, domestic courts have a wide margin of appreciation on the issue of criminal liability for incest

The case concerned the applicant's conviction and prison sentence for an incestuous relationship with his younger sister whom he had only met as an adult, having been adopted by his foster family, and with whom he had four children. He complained that his criminal conviction had violated his private and family life.

The Court considered in particular that the German authorities had a wide margin of appreciation in determining how to confront incestuous relationships between adult siblings. There was no consensus between the Council of Europe member States as to whether the consensual commitment of sexual acts between adult siblings should be criminally sanctioned. However, a majority of the states reviewed provided for criminal liability. Moreover, all the legal systems reviewed, including those which did not impose criminal liability, prohibited siblings from getting married. There was therefore a broad consensus that sexual relationships between siblings were neither accepted by the legal order nor by society as a whole. Furthermore, there was not sufficient evidence to assume that there was a general trend towards decriminalisation of such acts. Furthermore, the Court observed that the German Federal Constitutional Court had carefully analysed the arguments put forward in favour of and against criminal liability and had concluded that the conviction was justified by a combination of objectives, including the protection of the family, self-determination and public health, set against the background of a common conviction that incest should be subject to criminal liability. The Court therefore concluded that the German courts had not overstepped their margin of appreciation when convicting the applicant. There had accordingly been no violation of Article 8.

Yordanova and Others v. Bulgaria (no. 25446/06) – Importance 2 – 24 April 2012 – Violation of Article 8 – Disproportionate nature of a removal order concerning an unlawful Roma settlement established on public lands for more than 30 years – Article 46 – Obligation made to domestic authorities to ensure that orders to recover public land or buildings, even in cases of unlawful occupation, clearly identified the aims pursued with the recovery, the individuals affected, and the measures to secure proportionality

The case concerned the Bulgarian authorities' plan to evict Roma from a settlement situated on municipal land in an area of Sofia called Batalova Vodenitsa.

Article 8

The Court observed that as the applicants had lived with their families in the makeshift houses for many years; those houses had become their homes, irrespective of whether they occupied the houses lawfully or not. The Court considered that it was legitimate for the authorities, for the purposes of urban development, to try to recover land from people who occupied it unlawfully. There was no doubt

that the authorities were in principle entitled to remove the applicants who occupied municipal land unlawfully. However, for several decades the authorities had tolerated the unlawful Roma settlements in Batalova Vodenitsa. That had allowed the applicants to develop strong links with the place and to build a community life there. Notwithstanding the above, there was no obligation under the Convention to provide housing to the applicants. However, an obligation to secure shelter to particularly vulnerable individuals might flow from Article 8 in exceptional cases. In the applicants' case, it was undisputed that their houses did not meet basic sanitary and building requirements, which entailed safety and health concerns. The Court noted, however, that the Government had not shown that alternative methods for dealing with those problems, such as legalising buildings where possible, constructing public sewage and water-supply facilities and providing assistance to find alternative housing where eviction was necessary, had been studied seriously by the relevant authorities. The Court concluded that the removal order had been based on a law, and reviewed under a decision-making procedure, neither of which required that the order be proportionate to the aim it pursued. There would, therefore, be a violation of Article 8, if the removal order were enforced.

Article 46

The Court held that the general measures the authorities would have to adopt in order to implement the judgment, so as to avoid future similar violations, had to include a change in law and practice to ensure that orders to recover public land or buildings, even in cases of unlawful occupation, identified clearly the aims pursued with the recovery, the individuals affected and the measures to secure proportionality. As regards the individual measures needed to put a stop to the violation and provide redress for any damage caused to the applicants, the Court held that the 2005 removal order had to either be repealed or suspended pending measures to ensure that the Bulgarian authorities had complied with the Convention requirements, as clarified in the judgment.

Article 41 (just satisfaction)

The Court held that its finding of a violation of Article 8 constituted in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants. As for costs and expenses, the Court held that Bulgaria had to pay the applicants EUR 4,000.

Ilker Ensar Uyanik v. Turkey (no. 60328/09) – Importance 2 – 3 May 2012 – Violation of Article 8 – Domestic family courts' failure to carry out, as required by the Hague Convention, a throughout assessment of the entirety of the family situation of a father asking for the return of his daughter, living in Turkey with her mother

The applicant is a Turkish national who lives in the United States. In 2007, he travelled on holiday with his wife and his daughter. His wife and the child did not return to the United States. The domestic courts rejected his application requesting the return of his daughter on account of the baby's age (25 months). The applicant complained that the proceedings before the domestic courts had been unfair in that the courts failed to comply with the provisions of the Hague Convention.

The Court observed that the Turkish courts had found that it was in the child's interest to remain with her mother, but had not examined the circumstances of the case in the light of the principles set out in the Hague Convention. There was also no indication that the family court had considered whether or not the applicant had been granted rights of custody within the meaning of that Convention, under which the retention of a child was wrongful where custody rights had been attributed by the State in which the child was resident. Nor had the family court given sufficient consideration to the fact that the child's presence in Turkey de facto rendered illusory the maintenance of ties between the father and child. Finally, while there was no doubt that the girl's very young age was an important criterion in determining her interests, it could not in itself be a sufficient ground in such a dispute. The Court therefore concluded that there had been a violation of Article 8.

Under Article 41 (just satisfaction), the Court held that Turkey was to pay the applicant EUR 12,500 in respect of non-pecuniary damages.

- **Freedom of assembly**

Strzelecki v. Poland (no. 26648/03) (in French only) – Importance 2 – 10 April 2012 – No violation of Article 11 – The prohibition for municipal police officer to join a political party can be legitimate and necessary in a democratic society

The applicant was a municipal police officer at the relevant time. Under the Municipal Police Act officers of the municipal police were debarred from joining political parties. In 1999, **the applicant complained to the Ombudsman** that he was not permitted to engage in political activities, alleging discrimination. He requested the intervention of **the Ombudsman, who then lodged an appeal with**

the Constitutional Court challenging the provisions of eighteen laws governing the status of various public servants, including municipal police officers, and prohibiting them from joining political parties. In a judgment of 10 April 2002 the Constitutional Court declared that the prohibition was in conformity with the Constitution. The applicant complained that the law debarring him from joining a political party breached his right to freedom of association as guaranteed by that provision of the Convention.

The Court noted in particular that, according to the Polish Constitutional Court, measures intended to guarantee the political neutrality of certain categories of public servants could be justified by considerations related to the country's history. Such considerations remained pertinent for the preservation of citizens' trust in the State and its institutions. The Court thus took the view that the wish to preserve a public service that was impartial, politically neutral and set apart from the fray of politics, was a legitimate aim in a democratic society. As to whether the prohibition in issue was necessary in a democratic society and proportionate to the legitimate aim pursued, the Court pointed out that its established case-law afforded to national authorities a broad margin of appreciation when it came to regulating the status and career conditions of State officials participating directly in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the State. In the present case, even though the municipal police was not a military corps, its structure was based on the principles of hierarchical subordination, observance of orders and respect for disciplinary rules. In the exercise of their duties municipal police officers could be called upon to apply measures of constraint that might interfere with the rights and freedoms of citizens. As to the extent of the restriction imposed on the applicant's freedom of association, the Court once again agreed with the Polish Constitutional Court. It noted that the regulations governing the status of municipal police officers showed that they retained their right to express political opinions and preferences, because they were entitled to join trade unions, to vote or to stand for election in parliamentary or local elections, or to be elected as mayor. Consequently, taking into account the margin of appreciation afforded to domestic authorities in such matters, the Court found that the debarring of the applicant from joining a political party had not breached Article 11.

- **Protection of property**

Grudić v. Serbia (no. 31925/08) – Importance 1 – 17 April 2012 – Violation of Article 1 of Protocol 1 – Suspension of pensions' payment based on a non-legislative opinion of a Ministry

The case concerned complaints by two Serbians of Bosnian origin about prolonged non-payment of their disability pensions. In 1995 and 1999, they were granted disability pensions by the Serbian Pensions and Disability Insurance Fund. They regularly received their pensions until 9 June 1999 and 15 January 2000 respectively when the monthly payments stopped without any explanation. They complained about not being paid their disability pensions for more than a decade and that the reason for that had been their ethnic minority status.

The Court noted in particular that the applicants' existing pension entitlements were a possession within the meaning of Article 1 of Protocol No 1. Therefore, the suspension of the pensions' payment had clearly been an interference with the peaceful enjoyment of their possessions. The Fund had based its decisions to suspend the proceedings in which the applicants claimed the resumption of their pension payment on the basis of the Opinions of the Ministry for Social Affairs and the Ministry for Labour, Employment and Social Policy of March 2003 and June 2004 respectively, which apparently had never been published in the official gazette. At the same time, the Constitutional Court had held that such opinions did not amount to legislation but were merely meant to facilitate its implementation. Consequently, the Court concluded that the authorities' interference with the applicants' possessions had not been in accordance with the relevant domestic law. Accordingly, there had been a violation of Article 1 of Protocol No 1.

Under Article 41 (just satisfaction), the Court held that Serbia was to pay the applicants EUR 7,000 in respect of non-pecuniary damage, and EUR 3,000 jointly for costs and expenses.

Mago and Others v. Bosnia and Herzegovina (nos. 12959/05, 19724/05, 47860/06, 8367/08, 9872/09, 11706/09) – Importance 2 – 3 May 2012 – Violation of Article 1 of Protocol 1 – Unjustified deprivation of the applicants' rights to a lifelong use of flats they were allocated as members of the Yugoslav National Army

The applicants, or their spouses who were hired on different posts in the Yugoslav National Army (JNA), were all allocated flats between 1978 and 1988, either in Sarajevo or in Mostar, both situated in the former Socialist Federal Republic of Yugoslavia. At the time, once people were allocated a flat, they gained "occupancy rights", which entitled them to a permanent, lifelong use of the flat against the payment of a nominal fee. All applicants left behind their flats in 1992, at the time when the JNA

formally withdrew from Bosnia and Herzegovina. Afterwards, all applicants asked for the restitution of their pre-war flats, but their claims were rejected.

The Court noted that the deprivation had been lawful given that the occupancies rights had been cancelled on the basis of section 3a of the 1998 Restitution of Flats Act, which had been declared constitutional by the Constitutional Court. The Court also accepted the Government's argument that the applicants had been deprived of their possessions for the purposes of enhancing social justice. It then examined whether the authorities, by depriving the applicants of their possessions, had struck a fair balance between the protection of the applicants' property and the requirements of public interest. In particular, in one of the cases, the Court noted that as the spouses had divorced and the husband had not asked to have his flat returned following the divorce, the authorities had to respect the applicants' choice that the flat be used by the ex-wife, in line with the relevant national legislation. There had therefore been a violation of Article 1 of Protocol No. 1 in that respect.

In the cases of two other applicants, who had served in the armed forces of the Federal Republic of Yugoslavia established on 20 May 1992, the Court observed that they had been deprived of their flats merely because of that service. While the Government had argued that they had probably been allocated flats in Serbia, they had not shown any proof for that. The parties agreed that the nature of the war in Bosnia and Herzegovina had been such that service in certain armed forces was to a large extent indicative of the people's ethnic origin. Consequently, the deprivation of the applicants of their flats, while apparently neutral, had had the effect of treating people differently on the ground of their ethnic origin. That could not be justified in a democratic society. Given that the applicants had not been given any compensation, the Court concluded that there had been a violation of Article 1 of Protocol No 1 in their respect.

Under Article 41 (just satisfaction), the Court held that Bosnia and Herzegovina was to pay three of the applicants sums ranging between EUR 53,000 and EUR 85,000 in respect of pecuniary damage, EUR 5,000 to each to the same three applicants in respect of non-pecuniary damages, and EUR 740 to one applicant only for costs and expenses.

- **Cases concerning Chechnya**

[Estamirova v. Russia](#) (no. 27365/07) – Importance 3 – 17 April 2012 – No violation of Article 2 (substantive) – No evidence to support the applicant's allegation that her husband had been shot and killed by the Russian military – Violation of Article 2 (procedural) – Lack of an effective investigation into the applicant's husband's death – Violation of Article 13 – Lack of an effective remedy in that respect

[Shafiyeva v. Russia](#) (no. 49379/09) – Importance 3 – 3 May 2012 – No violation of Article 2 (substantive) – No evidence to support the applicant's allegation that the Russian military had been involved in her husband's disappearance or that they had been responsible for his subsequent presumed death – Violation of Article 3 (procedural) – Lack of an effective investigation into the applicant's husband's disappearance

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 24 Apr. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 26 Apr. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 3 May 2012: [here](#)

STATE	DATE	CASE TITLE	IMP.	CONCLUSION	KEY WORDS
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* The "Key Words" in the various tables of the RSIF are elaborated under the sole responsibility of the Directorate of Human Rights

ARMENIA	10 Apr. 2012	Gabrielyan (no. 8088/05)	3	No violation of Art. 6 § 1 taken together with Art. 6 § 3 (c)	Lack of sufficient elements to conclude that the State-appointed lawyer manifestly failed to provide effective legal assistance or, even if he did, no liability of domestic authorities for such a failure
				Violation of Art. 6 § 1 taken together with Art. 6 § 3 (d)	Unreasonable restriction of the applicant's right to examine witnesses whose testimonies played a decisive role in securing his conviction
		Hakobyan (no. 34320/04)	2	Violation of Art. 11	Unjustified interference with the applicants' right to freedom of peaceful assembly on account of their arrest and detention to prevent them from attending demonstrations
				Violation of Art. 5 § 1	Unlawful detention of the applicants
		Violation of Art. 6 § 1 taken together with Art. 6 § 3 (b)	Unfairness of proceedings, in particular on account of domestic courts' failure to afford the applicant with adequate time and facilities for the preparation of his defence		
		Violation of Art. 2 of Prot. 7	Inconsistency of domestic courts' case-law		
AUSTRIA	17 Apr. 2012	Steininger (no. 21539/07)	3	Violation of Art. 6 § 1	Lack of access to a tribunal on account of surcharges the applicant's company had to pay
AZERBAIJAN	17 Apr. 2012	Rizvanov (no. 31805/06)	3	Two violations of Art. 3 (substantive and procedural)	Serious physical and mental suffering resulting from the ill-treatment of the applicant by police officers; lack of an effective investigation in that respect
BULGARIA	17 Apr. 2012	Sarkizov (no. 37981/06)	3	No violation of Art. 6 §§ 1 and 3 (d)	Effective participation of the applicants in the proceedings concerning their case
				Violation of Art. 2 of Prot. 4	Unjustified travel bans on two of the applicants ; lack of an effective judicial review of these bans
	24 Apr. 2012	Petrov (no. 19202/03) (in French only)	2	Violation of Art. 2 (substantive and procedural)	Domestic authorities' failure to secure an electrical transformer's building located in a public park for children; Lack of an effective investigation into the trauma caused to the applicant by the electric shock sustained in that building
		Haralampiev (no. 29648/03) (in French only)	2	Violation of Art. 6 § 1	Domestic authorities' rejection of the applicant's request for a retrial after he had been sentenced <i>in absentia</i>
FRANCE	12 Apr. 2012	Lesquen du Plessis-Casso (no. 54216/09) (in French only)	3	Violation of Art. 10	The criminal conviction of the applicant for defamation of a political opponent during a session of a municipal council was unnecessary in a democratic society
		Martin (no. 30002/08) (in French only)	3	Violation of Art. 10	Unjustified search of a local newspaper's premises
GERMANY	19 Apr. 2012	B. (no. 61272/09)	3	Violation of Art. 5 § 1	Unlawful detention of the applicant after he had fully served his prison sentence

GREECE	19 Apr. 2012	Melis (no. 30604/07) (in French only)	2	Application of Art. 41	Just satisfaction in respect of the judgment of 22 October 2012
	24 Apr. 2012	Mathloom (in French only) (no. 48883/07)	3	Violation of Art. 5 §§ 1 (f) and 4	Breach of the applicant's right to liberty and security on account of the absence of a maximum period of detention for persons subject to a court deportation order
HUNGARY	24 Apr. 2012	Kaluczka (no. 57693/10)	3	Violation of Art. 8	Domestic authorities' failure to protect the applicant from her abusive partner despite requests to have him evicted from their shared flat
ITALY	10 Apr. 2012	Lorenzetti (no. 32075/09) (in French only)	3	Violation of Art. 6 § 1	Unfairness of proceedings, in particular on account of the fact that hearings had not been public
LATVIA	17 Apr. 2012	J.L. (no. 23893/06)	3	Violation of Art. 3 (procedural)	Lack of an effective investigation into allegations of rape in detention
LITHUANIA	10 Apr. 2012	Silickienė (no. 20496/02)	2	No violation of Art. 6 §§ 1 and 2	Reasonable and sufficient opportunity for the applicant to present her case
				No violation of Art. 1 of Prot. 1	Having regard to the margin of appreciation enjoyed by States in pursuit of a crime policy designed to combat the most serious crimes, the interference with the applicant's right to the peaceful enjoyment of her possessions was not disproportionate to the legitimate aim pursued
MOLDOVA	17 Apr. 2012	Culev (no. 60179/09)	3	Violation of Art. 3	Inhuman conditions of detention
MONTENEGRO	17 Apr. 2012	Tomic and Others (no. 18650/09)	3	No violation of Art. 6 § 1	Consistency of domestic court's case law
POLAND	10 Apr. 2012	Bar-Bau Sp. Z o. o. (no. 11656/08) (in French only)	3	Violation of Art. 6 § 1	Deprivation of the right of access to a court on account of Cassation Court's arbitrary examination of the applicant company's appeal based on a statutory exhaustive list of conditions of admissibility of an appeal on points of law
	17 Apr. 2012	Fafrowicz (no. 43609/07)	2	No violation of Art. 6 § 1	Fairness of proceedings
		Mamelka (no. 16761/07)	3	Violation of Art. 5 § 1	Domestic authorities' failure to keep to a minimum the delay in implementing a decision to release the applicant from prison
ROMANIA	10 Apr. 2012	Popa and Tanasescu (no. 19946/04)	2	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 c) and d)	Unfairness of proceedings on account of the applicants' conviction without hearing evidence from them
ROMANIA	17 Apr. 2012	Pascal (no. 805/09)	3	No violation of Art. 8	Domestic court's handled the applicant's case with due regard to the best interests of his child and of the family as a whole

	24 Apr. 2012	S.C. Granitul S.A. (no. 22022/03) (in French only)	3	Just satisfaction	Just satisfaction in respect of the judgment of 22 March 2011 (not yet final)
RUSSIA	10 Apr. 2012	Andreyeva (no. 73659/10)	3	Violation of Art. 1 of Prot. 1	Inability of the applicant to receive any money from the State despite a domestic court's judgment acknowledging her right to promissory notes
		Shchebetov (no. 21731/02)	2	No violation of Art. 2 (substantive and procedural)	Lack of sufficient evidence to consider that the domestic authorities were responsible for the applicant's contraction of HIV in detention; effective investigation in that respect
	24 Apr. 2012	Chumakov (no. 41794/04)	2	No violation of Art. 3 (substantive)	Lack of sufficient evidence to conclude to the ill-treatment of the applicant
				Violation of Art. 3 (procedural)	Inadequate and ineffective investigation into the applicant's allegations of ill-treatment
				Violation of Art. 5 § 1 (c)	Unlawful detention of the applicant
				Violation of Art. 5 § 3	Unjustified deprivation of the applicant's liberty
	Medvedev (no. 34184/03)	3	No violation of Articles 6 § 1 and 3	Fairness of proceedings (effective legal representation of the applicant)	
	Sibgatullin (no. 1413/05)	2	Violation of Art. 6 § 1 taken together with Art. 6 § 3 (d)	Unfairness of trial on account of the applicant's inability to challenge witnesses' statements, which were of decisive importance for his conviction	
			Violation of Art. 38	Domestic Government's failure to respond diligently to the Court's request for the evidence it considered necessary for the examination of the application	
	Solovyevy (no. 918/02)	2	Violation of Art. 3	Poor conditions of detention	
Violation of Art. 5 § 4			Unfairness of detention hearings (lack of legal representation of the applicant, applicant's inability to attend the hearings)		
		Violation of Art. 6 § 1	Excessive length of criminal proceedings (more than 5 years)		
3 May 2012	Kuzmin (no. 6479/05)	3	Violation of Art. 5 § 3	Domestic authorities' failure to provide sufficient reasons for the applicant's continued pre-trial detention	
	Nitsov (no. 35389/04)	3	Violation of Art. 3 (substantive and procedural)	Ill-treatment by police officers; lack of an effective investigation in that respect	
	Salikhov (no. 23880/05)	2	Violations of Art. 3 (substantive and procedural)	Forcible removal of the applicant's underwear by beatings, cutting of the applicant's fingernails and attempt to take a blood sample by force by police officers; poor conditions of detention; lack of an effective investigation	
Violation of Art. 6			Unfairness of proceedings		
SERBIA	10 Apr. 2012	Juhas Đurić (no. 48155/06)	3	Request for revision	Rejection of the applicant's request for revision of the judgment of 7 June 2011

SLOVENIA	26 Apr. 2012	Butolen (no. 41356/08)	3	Violation of Art. 3 (substantive and procedural)	Ill-treatment by police officers; lack of an effective investigation in that respect
SWEDEN	12 Apr. 2012	Eriksson (no.60437/08)	2	No Violation of Art. 6 § 1	Justified refusal of domestic appellate courts to hold an oral hearing in the applicant's case
THE CZECH REPUBLIC	26 Apr. 2012	Diallo (no. 20493/07)	3	Just satisfaction	Just satisfaction in respect of the judgment of 28 November 2011
“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”	19 Apr. 2012	Gorgiev (no. 26984/05)	2	Violation of Art. 3 (procedural)	Lack of an effective investigation into the applicant's allegation that domestic authorities failed to protect him from a dangerous bull while he was serving at the prison's farm
				No violation of Art. 3 (substantive)	In the unusual circumstances of the present case, the Court considered that the State was not under an obligation to take more steps to protect the applicant from the bull that attacked him
THE UNITED KINGDOM	10 Apr. 2012	Balogun (no. 60286/09)	3	No violation of Art. 8	The interference with the applicant's private life caused by his deportation would not be disproportionate in all the circumstances of the case
		Woolley (no. 28019/10)	2	No violation of Art. 5 § 1	Lawfulness of the applicant's detention
UKRAINE	26 Apr. 2012	Molotchoko (no. 12275/10)	2	Violation of Art. 5 § 1 (f)	Arbitrary and unlawful detention pending extradition
				Violation of Art. 5 § 4	Infringement of the applicant's right to challenge the lawfulness of his detention
TURKEY	17 Apr. 2012	Catal (no. 26808/08)	3	Violation of Art. 5 § 3	Excessive length of pre-trial detention (almost 12 years)
				Violation of Art. 5 § 4	Lack of an effective remedy in that respect
				Violation of Art. 6 § 1	Excessive length of criminal proceedings (15 years for two levels of jurisdiction)
				Violation of Art. 13	Lack of an effective remedy in that respect
TURKEY	3 May 2012	Yelden and Others (in French only) (no. 16850/09)	3	Violation of Art. 2 (substantive)	Death of the applicants' relative while in police custody
				Violation of Art. 2 (procedural)	Lack of an effective investigation in that respect
UKRAINE	19 Apr. 2012	M. (no. 2452/04)	2	Violation of Art. 5 § 1	Arbitrary deprivation of the applicant's liberty on account of her detention in a hospital without adequate procedural safeguards
		Sergiyenko (no. 47690/04)	3	Violation of Art. 2 (procedural)	Excessive length of criminal proceedings concerning the death of the applicant's son

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

STATE	DATE	CASE TITLE	CONCLUSION	KEY WORDS
AZERBAIJAN	3 May 2012	Bakshiyev and Others (no. 51920/09)	Violation of Articles 6 § 1 and 1 of Prot. 1	Delayed enforcement of judgments in the applicants' favor
		Gasimova and Others (no. 7867/09)		
BOSNIA AND HERZEGOVINA	3 May 2012	Bobic (no. 26529/10)	Violation of Articles 6 § 1 and 1 of Prot. 1	Delayed enforcement of judgments in the applicant's favor
BULGARIA	10 Apr. 2012	Vasilev (no. 10302/05)	Violation of Art. 6 §1	Unfairness of proceedings
			Violation of Art. 13	Lack of an effective remedy in that respect
			Violation of Art. 5 § 4	Infringement of the applicant's right to have the lawfulness of his detention decided speedily by a court
			Violation of Art. 5 § 5	Lack of domestic law providing for compensation for failure to review a prisoner's request for release in good time
			Violation of Art. 8	Monitoring of the applicant's correspondence by prison authorities
			No violation of Art. 13	Effective remedy in that respect
MOLDOVA	17 Apr. 2012	Jomiru and Cretu (no. 28430/06)	Violation of Art. 6	Infringement of the applicant's right to a fair hearing
			Violation of Art. 1 of Prot. 1	Violation of the principle of legal certainty on account of the questioning of final decisions in the applicants' favour
POLAND	17 Apr. 2012	Korgul (no. 35916/08)	Violation of Art. 6 § 1	Lack of effective access to a court on account of difficulties with lodging cassation appeals
		Simonov (no. 45255/07)	No violation of Art. 5 § 3	Reasonable length of pre-trial detention
	3 May 2012	Chorobik (no. 45213/07)	No violation of Art. 6 § 1	No infringement of the applicant's right of access to a court on account of the rejection of a cassation appeal lodged out of time
ROMANIA	17 Apr. 2012	Hermziu (no. 13859/03)	Violation of Art. 5 § 4	Unjustified rejection of the applicant's claim regarding the extension of her detention
RUSSIA	10 Apr. 2012	Kochalidze and 2 Others (nos. 44038/05, 16869/08, 44595/05)	Violation of Art. 6 § 1	Non-enforcement or delayed enforcement of judgments in the applicants' favour
TURKEY	3 May 2012	Taşçı and Demir (no. 23623/10)	Violation of Art. 5 § 3	Excessive length of pre-trial detention
			Violation of Art. 5 § 4	Infringement of the applicants' right to have the lawfulness of their detention decided speedily by a judge

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).

STATE	DATE	CASE TITLE	LINK TO THE JUDGMENT
AUSTRIA	17 Apr. 2012	Barthofer (no. 41113/08)	Link
BULGARIA	24 Apr. 2012	Petrova (no. 19532/05)	Link
GREECE	17 Apr. 2012	Bachas (no. 54703/09)	Link
		Zanni (no. 45481/09)	Link
	3 May 2012	Cangelaris (no. 28073/09)	Link
		Ioannis Karagiannis (no. 66609/09)	Link
		Sagropoulos (no. 61894/08)	Link
		Seta (no. 30287/09)	Link
ITALY	24 Apr. 2012	Zelidis (no. 59793/08)	Link
		De Ieso (no. 34383/02)	Link
		Mezzapesa and Others (no. 37197/03)	Link
SLOVAKIA	3 May 2012	Pedicini and Others (no. 50951/99)	Link
SLOVENIA	26 Apr. 2012	Masár (no. 66882/09)	Link
SLOVENIA	12 Apr. 2012	Gobec (no. 28275/06)	Link
UKRAINE	19 Apr. 2012	Kalj (no. 21313/6)	Link
		Khazhevskiy (no. 28297/08)	Link
		Shpiloko (no. 11471/08)	Link
	26 Apr. 2012	Varlamova (no. 24436/06)	Link
Blinova (no. 2248/06)		Link	
TURKEY	24 Apr. 2012	Mehmet Nury Cacan (no. 23139/07)	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 26 March to 22 April 2012**. 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.

STATE	DATE	CASE TITLE	ALLEGED VIOLATIONS (KEY WORDS)	DECISION
AUSTRIA	27 Mar. 2012	Michajlov (no. 13796/09)	Articles 3, 5, 6 (continued imprisonment of the applicant despite the fact that he was unfit for detention due to illness)	Inadmissible as manifestly ill-founded
BOSNIA AND HERZEGOVINA	10 Apr. 2012	Prevljak (no. 127/10)	Articles 6 and 1 of Prot. 1 (outcome of proceedings and contradictory decision of the Constitutional Court)	Inadmissible as manifestly ill-founded
		Simsic (no. 51552/10)	Art. 7 (conviction of the applicant for crime against humanity while this was not a criminal offense under national law at the time of the fact), Art. 2 of Prot. 7 (alleged deprivation of the	

			applicant's right to second-instance proceedings), Art. 1 of Prot. 12 (applicant's case taken over by State Court from the competent Entity Court, unlike some other cases)	
		S.V. and S.V. (no. 31989/06)	Art. 3 (alleged lack of an effective investigation into a suspected rape)	
BULGARIA	27 Mar. 2012	Kerim and Others (no. 28787/11)	Art. 3 (risk of ill-treatment in case of removal from Bulgaria to Greece; detention by domestic authorities making the applicant live in constant fear of removal), Art. 5 § 1 (arbitrary detention), Art. 5 § 4 (three-day time limit for the lodging of an appeal against detention)	Partly struck out of the list concerning the risk of ill-treatment in case of removal (the applicants were granted humanitarian status in Bulgaria), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected the Convention concerning the remainder of the application)
	17 Apr. 2012	Darzhikov (no. 52119/07)	Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (the applicant no longer wished to pursue the application)
		Ivanova (no. 7513/07)	Art. 6 § 1 (excessive length of civil proceedings)	
		Karavelova (no. 38444/07)		
CROATIA	27 Mar. 2012	Francic and 5 other applications (no. 26164/09)	Art. 1 of Prot. 1 (dismissal of the applicants' claims for special daily allowances for demining work), Art. 6 § 1 (outcome and unfairness of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (concerning Art. 6 § 1)
	3 Apr. 2012	Buckal (no. 29597/10)	Art. 3 (poor conditions of detention)	Inadmissible as manifestly ill-founded
	17 Apr. 2012	Lezaja (no. 53004/08)	Articles 6 § 1 and 13 (alleged unfairness and excessive length of civil proceedings, lack of access to court), Art. 14 (alleged discrimination on grounds of the applicant's place of residence), Art. 1 of Prot. 1 (the State had extinguished the applicant's existing claim for compensation of damage resulting from terrorist acts by legislation which had entered into force after the damage had occurred)	Inadmissible for non-exhaustion of domestic remedies (concerning claims under Articles 6 § 1 and 13), inadmissible as manifestly ill-founded concerning the remainder of the application
CYPRUS	3 Apr. 2012	Emin and Others (no. 59623/08 and 6 others)	Art. 2 (lack of an effective investigation into the disappearance and killings of the applicants' relatives), Art. 3 (trauma and anguish resulting from the discovery of the	Inadmissible as manifestly ill-founded

			applicants' relatives' remains)	
FINLAND	3 Apr. 2012	Raty (no. 26527/10)	Art. 6 (lack of a fair trial and length of compensation proceedings), Art. 14 (discrimination)	Struck out of the list (unilateral declaration of the Government)
FRANCE	10 Apr. 2012	Y.B. (no. 13616/11)	Articles 2 and 3 (alleged ill-treatment in case of deportation to China)	Struck out of the list (the applicant no longer wished to pursue the application)
GEORGIA	3 Apr. 2012	Aladashvili (no. 17491/09)	Art. 3 (poor condition of detention)	Struck out of the list (the applicant no longer wished to pursue the application)
		Kotchlamazashvili (no. 42270/10)	Articles 2 and 3 (alleged contraction of diseases in prison)	
	10 Apr. 2012	Ivanov (no. 10549/08)	Art. 3 (alleged ill-treatment during the applicant's arrest and prosecution authorities' failure to conduct and effective investigation in this regard)	
GREECE	10 Apr. 2012	Vlachos (no. 21965/10)	Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
HUNGARY	3 Apr. 2012	Barasits (no. 59718/09)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
		Gajdos (no. 24590/09)		
		Gazda (no. 37370/09)		
		Gyorgy (no. 52087/09)		
		Havrilla (no. 38188/09)		
	Legendi (no. 27814/06)	Articles 5 and 6 (unjustified detention)	Struck out of the list (unilateral declaration of the Government)	
	Szebelledi (no. 57193/09)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)	
LATVIA	27 Mar. 2012	Boze (no. 40927/05)	In particular alleged violation of Art. 8 (allegedly unauthorised search of the applicant's apartment and seizure of his personal belongings), Art. 6 (hindrance to the applicant's right of access to a court)	Inadmissible as manifestly ill-founded
		Posevs	Opening of the Court's letters addressed to the applicant by	Struck out of the list (the applicant no longer

		(no. 8542/04)	the administration of the prison (no article specified)	
	10 Apr. 2012	Bosolajevs (no. 10549/08)	Art. 3 (alleged inhuman treatment resulting from a maximum-security regime in detention)	wished to pursue the application)
MOLDOVA	27 Mar. 2012	Cicala (no. 45778/05)	Articles 3, 5, 6 and 8 (breach of the applicant's right not to be subjected to ill-treatment, right to liberty, right to a fair trial, and right to respect for his home)	Struck out of the list (friendly settlement reached)
	10 Apr. 2012	Ermacov (no. 9230/05 and 12 Others)	Non-enforcement of judgments in the applicants' favour (no article mentioned)	Struck out of the list (the applicants no longer wished to pursue their application)
		Furculita and Others (no. 7304/05 and 20 Others)	Non-execution or delayed execution of judgments in the applicants' favour (no Article specified)	Inadmissible as manifestly ill-founded
		Girlea (no. 33358/06 and 13 others)	In particular, Article 6 and Art. 1 of Prot. 1 (non-enforcement of judgments in the applicants' favour)	
		Gudet (no. 18472/05 and 23 others)		
NORWAY	11 Apr. 2012	X. (no. 53351/09)	Articles 2 and 3 (alleged risk for the applicant and his family members to be killed and/or ill- treated in case of deportation to Burundi)	Inadmissible as manifestly ill-founded
POLAND	27 Mar. 2012	Agier (no. 52809/08)	Art. 6 § 1 (lack of access to the Supreme Court)	Struck out of the list (unilateral declaration of the Government)
		Jastrzebski (no. 51881/10)	Art. 6 § 1 (excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
		Kit (no. 25968/10)		
		Wielgus (no. 62120/10)	Art. 5 § 3 (excessive length of pre-trial detention)	
	Wrzesinski (no. 54399/07)	Art. 6 § 1 (lack of independence of the assessor who had examined the applicant's case at the first-instance level), Art. 6 (denial of an effective access to the Supreme Court on account of legal-aid lawyer's refusal to prepare a cassation appeal)	Partly struck out of the list (unilateral declaration of the Government concerning Art. 6 § 1), partly inadmissible as manifestly ill-founded (concerning Art. 6)	
	3 Apr. 2012	Dobrzynska (no. 34932/08)	Art. 8 (allegedly unnecessary and excessive placement order concerning the applicant's child)	Incompatible <i>ratione personae</i> with the provisions of the Convention

		Kosiak (no. 46817/06)	Art. 3 (poor condition of detention and lack of adequate medical care)	Struck out of the list (the applicant no longer wished to pursue the application)	
		Szymanowski (no. 40466/05)	Art. 6 § 1 (lack of access to the Supreme Court, domestic courts' alleged failure to establish the facts of the applicant's case correctly)	Inadmissible for non-exhaustion of domestic remedies	
		Wojda (no. 48558/08)	Art. 3 (poor conditions of detention)	Struck out of the list (unilateral declaration of the Government)	
	11 Apr. 2012	Boguslawski Vel Dobroslawski (no. 48986/10)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)	
		Czaplinski (no. 58143/10)	Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 (excessive length of proceedings)		
		Gonslawski (no. 46619/11)	Art. 3 (alleged poor conditions of detention)		
		Holomek (no. 53500/09)	Art. 3 (alleged poor conditions of detention)	Struck out of the list (friendly settlement reached)	
		Keska (no. 5584/08)			
		Kosiorek (no. 49655/09)	Articles 5 § 3 and 6 (excessive length of pre-trial detention and criminal proceedings)		
		Pruszynski (no. 23943/09)	Art. 5 § 3 (excessive length of pre-trial detention)		
Ryl (no. 62681/10)		Art. 6 § 1 (excessive length of proceedings)			
Aksman (no. 63589/10)	Articles 6 and 13 (excessive length of civil proceedings and lack of an effective remedy)				
ROMANIA	27 Mar. 2012	Costache (no. 25615/07)	Articles 3 and 8 (inhuman living conditions in a stable belonging to the State; domestic authorities' failure to provide the applicant with adequate housing suitable to his state of health)		Inadmissible as manifestly ill-founded
		Eftimescu (no. 22233/08)	Art. 1 of Prot. 1 (no further specifications)		Struck out of the list (the applicant no longer wished to pursue the application)
		Nicoara and 2 other applications (no. 33425/03)	Art. 6 § 1 (alleged infringement of the applicants' right of effective access to a court due to the amount of courts fees imposed)	Struck out of the list (the applicants no longer wished to pursue the application)	
	3 Apr. 2012	Roman	Art. 3 (in particular, poor conditions of detention), Art. 5	Partly adjourned (concerning Articles 3	

		(no. 4140/04)	§§ 3 and 4 (excessive length of pre-trial detention), Art. 6 §§ 1, 2 and 3 (excessive length of civil proceedings), Art. 7 (criminal conviction for an allegedly non-criminal offense), Art. 13 (lack of an effective remedy), Art. 4 of Prot. 7 (domestic courts' failure to join two sets of criminal proceedings)	and 6 § 1), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
	10 Apr. 2012	Constantinescu-Ritter (no. 33599/03 and 3 others)	Art. 6 § 1 (alleged infringement of the applicants' effective access to court due to the amount of court fees imposed)	Struck out of the list (the applicants no longer wished to pursue their application)
		Goldstein and S.c. Ring Press SRL (no. 877/04)	Art. 10 (conviction of the applicants for unfair competition for publishing a series of articles criticising the activities and alleged corrupt relations with State officials of a competitor media group), Art. 6 (alleged unfairness of proceedings)	Inadmissible as manifestly ill-founded
		Mereuta (no. 53241/09)	Art. 8 (alleged infringement of the applicant's right to respect for family life on account of the non-enforcement of a final judgment allowing him to have personal contact with his child), Art. 6 (outcome of criminal proceedings)	
		Pop Blaga (no. 37379/02) (in French only)	Art. 3 (ill-treatment in a police station and during transportations by police officers), Art. 5 §§ 1 c), 3, 4 and 5 (unlawful detention; lack of public hearings...), Art. 6 (excessive length of proceedings), Art. 8 (in particular, domestic authorities' refusal to deliver postal packages in prison, interception of personal communications, publication of articles showing the applicant handcuffed and surrounded by police officers, diffusion of pictures of the applicant's home interviews of minors by police officers...)	Partly admissible (concerning the condition of detention and transportation and the interception of personal communications), partly inadmissible as manifestly ill-founded (concerning claims under Articles 5 and 6 and the interview of minors by police officers), partly inadmissible for non-exhaustion of domestic remedies (concerning the diffusion of pictures of the applicant's home)
		S.C. Millennium Building Development S.R.L. (no. 10787/08)	Art. 6 (domestic court's alleged lack of independence and impartiality), Art. 1 of Prot. 1 (unjustified expropriation), Art. 6 § 1 (alleged infringement of the principle of legal certainty), Articles 14 and 1 of Prot. 12 (alleged discrimination against the applicant on account of the nullification of her building permit)	Partly incompatible <i>ratione materiae</i> with the provisions of the Convention (concerning the lack of independence and impartiality and the violation of the principle of legal certainty), partly inadmissible for non-respect of the six-month requirement (concerning the remainder of the application)
		"Ganga et le syndicat	First applicant: Art. 6 § 1 (conviction in absence of the	Partly inadmissible as manifestly ill-founded

		indépendant des juristes de Roumanie (no. 28906/09)	applicant, public prosecutor's lack of partiality, conviction of the applicant for illegally practising the profession of lawyer while other people in the same situation were not convicted), Art. 6 § 2 (conviction of the applicant while his criminal liability was time-barred) Second applicant: Art. 6 § 1 (unjustified rejection of the applicant's claim, on grounds of admissibility, by domestic courts, violation of the adversarial and equality of arms principles)	(concerning the first applicant's claims), partly incompatible <i>ratione materiae</i> with the provisions of the Convention (concerning the second applicant's claims)
		Ginju and others (no. 30419/10)	Articles 6 and 1 of Prot. 1 in conjunction with Art. 14 (allegedly unjustified difference of treatment between employees on account of the distribution of extraordinary bonus)	Struck out of the list (the applicant no longer wished to pursue the application)
		Mocuta (no. 10265/04)	Art. 6 § 1 (alleged unfairness of proceedings), Art. 14 (alleged unfair trial on account of the applicant's political activities), Art. 8 § 1 (domestic authorities' alleged failure to respect the applicant's right to protect his dignity and reputation), Art. 10 § 2 (domestic authorities' alleged failure to take positive measures to protect morals, a person's reputation or the rights of others and to maintain the authority and impartiality of the judiciary)	Inadmissible as manifestly ill-founded
RUSSIA	27 Mar. 2012	Chebotarev and 2 others (no. 35330/07)	Articles 6 and 1 of Prot. 1 (delayed enforcement of judgments in the applicants' favour)	Struck out of the list (unilateral declaration of the Government)
		Novopavlovskiy (no. 26614/05)	Articles 6 § 1 and 8 (domestic authorities' failure to afford the applicant adequate protection from interference with his right to respect for his home and peaceful enjoyment of his possessions; excessive length of proceedings in that respect)	Struck out of the list (the applicant no longer wished to pursue the application)
		Svistunov (no. 41187/05)	Art. 5 § 1 (unlawful detention), Art. 6 (faults in the criminal proceedings), Articles 6 § 1 and 1 of Prot. 1 (delay in the enforcement of judgment in the applicant's favour), Art. 13 (lack of legal assistance), Art. 14 (court's failure to ensure the applicant personal presence at hearings)	Inadmissible as manifestly ill-founded
		Vorobyeva (no. 35497/06)	Articles 6 and 1 of Prot. 1 (quashing of a final judgment in the applicants' favour)	Struck out of the list (it is no longer justified to continue the examination of the application)

	10 April 2012	Zhukov (no. 51496/08)	Art. 6 (domestic authorities failure to notify the applicant of appeal hearings)	Struck out of the list (the applicant no longer wished to pursue the application)
		Chalykh (no. 55252/08)	Articles 1, 6 and 17 (non-enforcement of a court decision in the applicant's favour)	Struck out of the list (unilateral declaration of the Government)
		Khachatryan (no. 9443/05)	Art. 3 (inhuman and degrading treatment on account of domestic authorities' alleged failure to provide the applicant with adequate medical assistance throughout his stay in various detention and correctional facilities)	Inadmissible for non-exhaustion of domestic remedies
		Khikhlyya (no. 2059/05)	Articles 6, 13 and 1 of Prot. 1 (delayed enforcement of two judgments in the applicant's favour)	Partly struck out of the list (the applicant no longer wished to pursue his application concerning the first judgment), partly inadmissible as manifestly ill-founded (concerning the alleged delayed enforcement of the second judgment)
		Voropayev and Others (no. 4047/05 and 18 others)	Article 6 and/or Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicants' favour)	Struck out of the list (the applicants no longer wished to pursue their application)
		Slepets (no. 15971/06)	Art. 5 § 1 (e) (no further details)	
SAN MARINO	27 Mar. 2012	Paoloni (no. 41045/10)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
SERBIA	3 Apr. 2012	Baturan (no. 6022/08)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (unilateral declaration of the Government)
		Milosavjevic (no. 51743/07)	Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy)	
SLOVAKIA	27 Mar. 2012	Hrebik (no. 22973/10)	Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy)	Struck out of the list (friendly settlement reached)
SLOVENIA	27 Mar. 2012	Berdajas (no. 10390/09)	Art. 6 (lack of oral and public hearings), Art. 13 (Constitutional court's refusal to deal with the applicant's constitutional appeal)	Inadmissible as manifestly ill-founded
	3 Apr. 2012	Aldzic (no. 40758/05)	Art. 6 (excessive length of proceedings)	Struck out of the list (it is no longer justified to continue the examination of the application)
		Bislimi	Articles 3 and 8 (poor conditions of detention)	Inadmissible as manifestly ill-founded

		(no. 6918/10 and 9 others)		
		Cakaric (no. 27342/06)	Art. 6 (excessive length of proceedings), Art. 13 (lack of an effective remedy in that respect)	Partly inadmissible for non-exhaustion of domestic remedies (concerning Art. 6), partly inadmissible as manifestly ill-founded (concerning Art. 13)
		Mlinaric (no. 17171/06)		Inadmissible as manifestly ill-founded
		Sajovic (no. 47868/06)		
		Straus (no. 38980/05)		
		Vidovic (no. 26186/05)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (it is no longer justified to continue the examination of the application)
		Vuk (no. 45496/06)	Art. 6 (excessive length of proceedings), Art. 13 (lack of an effective remedy in that respect)	Inadmissible as manifestly ill-founded
SPAIN	27 Mar. 2012	Gutierrez Dorado and Dorado Ortiz (no. 30141/09)	Articles 2, 3, 5, 8 and 13 (disappearance of the applicants' father and grandfather after being apprehended by armed forces)	Inadmissible as manifestly ill-founded
SWEDEN	27 Mar. 2012	Hillefors (no. 21617/07)	Art. 6 § 1 (alleged violation of the applicant's right to an oral hearing)	Inadmissible as manifestly ill-founded
	3 Apr. 2012	Biraga and others (no. 1722/10)	Articles 3 and 8 (risk of ill-treatment and of infringement of the applicants' right to respect for private and family life in case of deportation to Ethiopia)	
	10 Apr. 2012	R.W. and others (no. 35745/11)	In particular Articles 2 and 3 (alleged risk to be killed or subjected to female genital mutilation if returned to Kenya)	
THE NETHERLANDS	10 Apr. 2012	A.K. (no. 71702/10)	Art. 3 (alleged risk of ill-treatment in case of deportation to Iraq)	Struck out of the list (the applicant no longer wished to pursue the application)
THE UNITED KINGDOM	10 April 2012	Akbulut (no. 53586/08)	Art. 8 (alleged infringement of the applicant's right to respect for private life in case of deportation to Tunisia)	Inadmissible as manifestly ill-founded
		Ellis and Simms (no. 46099/06) ; Martin	Art. 6 §§ 1 and 3 (alleged infringement of the applicants' right to have examine a witness)	

		(no. 46699/06)			
		Ismail and Others (no. 4289/11)	Art. 8 (alleged disproportionate interference with the applicant's right to respect for family and/or private life in case of deportation to Iraq)	Struck out of the list (the applicant no longer wished to pursue the application)	
		Richardson (no. 26252/08)	Art. 1 of Prot. 1 (raising of the pension age), Art. 14 (alleged discrimination of the applicant on grounds of her age and sex)	Partly incompatible <i>ratione materiae</i> with the provisions of the Convention (concerning claim under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (concerning claim under Art. 14)	
TURKEY	27 Mar. 2012	Akkaya (no. 32015/09)	In particular, Art. 5 § 1 (unlawful detention), Art. 5 § 3 (excessive length of pre-trial detention), Art. 6 (lack of impartiality and independence of the assize courts), Art. 7 in conjunction with Art. 6 (misconstruction of Criminal Code articles), Art. 2 of Prot. 1 (breach of the applicant's right to education on account of the applicant's pre-trial detention)	Partly adjourned (concerning the length of pre-trial detention and criminal proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)	
		Boltan (no. 32777/09)			
		Eroglu and others (no. 65194/10)			
	3 Apr. 2012		Aykut (no. 7155/08)	Art. 6 § 1 (lack of an oral hearing)	Struck out of the list (the applicant no longer wished to pursue the application)
			Beliren (no. 3305/07)		Struck out of the list (unilateral declaration of the Government)
		Charalambous and Others (no. 46744/07 and 28 others)	Art. 2 (domestic authorities' failure to carry out an effective investigation into the disappearance and killings of the applicants' relatives), Art. 3 (trauma resulting from the discovery of the applicants' relatives' remains)	Inadmissible as manifestly ill-founded	
		Habtemariam and others (no. 22872/11)	Articles 2 and 3 (risk of being killed or ill-treated in case of removal to Eritrea, ill-treatment by airport authorities), Art. 5 §§ 1 and 2 (unlawful detention at a domestic airport), Art. 5 §§ 4 and 5 (lack of a remedy), Art. 34 (denial of access to the applicants' representative)	Incompatible <i>ratione personae</i> with the provisions of the Convention	
	10 April 2012	Dogan (no. 28484/10) (in French only)	Art. 3 (alleged lack of adequate medical care in detention), Art. 5 § 1 (alleged unlawful detention), Art. 5 § 3 (excessive length of detention), Art. 5 § 4 (alleged violation of the principle of equality of arms), Art. 6 § 1 (unfair trial)	Partly admissible (concerning Art. 5 § 4), partly inadmissible as manifestly ill-founded (concerning Articles 3, 5 §§ 1, 3, 4), partly inadmissible for non-exhaustion of domestic remedies (concerning Art. 6 § 1)	

		<p>Dedeoglu (no. 42319/11) (in French only)</p>	<p>Art. 3 (alleged ill-treatment in police custody), Art. 5 (excessive length of pre-trial detention), Art. 6 § 1 (alleged unfairness of military tribunals' proceedings, infringement of the applicant's right to being presume innocent, excessive length of criminal proceedings), Art. 6 § 3 (lack of legal assistance in police custody, confessions extracted under duress)</p>	<p>Partly inadmissible for non-respect of the six-month requirement (concerning Articles 5 and 6), partly inadmissible as manifestly ill-founded (concerning Art. 3), partly inadmissible for non-exhaustion of domestic remedies (concerning Art. 6 § 3)</p>
		<p>Karakasoglu (no. 39105/09)</p>	<p>Art. 6 (domestic courts' failure to assess the facts of the applicants' case properly, outcome of the proceedings, breach the applicants' right of access to a court)</p>	<p>Inadmissible as manifestly ill-founded</p>
UKRAINE	27 Mar. 2012	<p>Bazelyuk (no. 49275/08)</p>	<p>Articles 6 § 1, 13, 17 and 1 of Prot. 1 (Supreme Court's failure to inform the applicant about the cassation proceedings and to give him an opportunity to comment on the defendant's appeal in cassation)</p>	<p>Inadmissible as manifestly ill-founded</p>
		<p>Dvirnyy (no. 610/05)</p>	<p>Art. 3 (ill-treatment during a special police force training)</p>	<p>Struck out of the list (it is no longer justified to continue the examination of the application)</p>
		<p>Ganchuk (no. 8428/07)</p>	<p>Art. 6 § 1 (excessive length of proceedings, lack of independence of a judge who sat twin in the appellate court's panel dealing with the applicant's case), Art. 13 (unfavourable outcome of domestic proceedings), Articles 5 and 11 (no further details)</p>	<p>Partly struck out of the list (unilateral declaration of the Government concerning the length of proceedings), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)</p>
		<p>Mishyn (no. 16799/07)</p>	<p>Art. 6 § 1 (excessive length of proceedings), Art. 13 (unfavourable outcome of domestic proceedings)</p>	<p>Partly struck out of the list (unilateral declaration of the Government concerning claim under Art. 6 § 1), partly inadmissible as manifestly ill-founded (concerning claim under Art. 13)</p>
		<p>Plakhov (no. 38508/06)</p>	<p>Articles 6 and 2 of Prot. 7 (alleged impossibility to appeal against a ruling)</p>	<p>Struck out of the list (unilateral declaration of the Government)</p>
		<p>Poryadyuchenko (no. 8605/06)</p>	<p>Art. 6 § 3 (no further details)</p>	<p>Struck out of the list (the applicant no longer wished to pursue the application)</p>
		<p>Tyutyunyk and 1 other</p>	<p>Art. 6 § 1 (excessive length of proceedings), Articles 13 and 17 (unfair outcome of proceedings)</p>	<p>Inadmissible as manifestly ill-founded</p>

		(no. 7721/07)		
	3 Apr. 2012	Bashchenko (no. 61484/10)	Art. 6 § 1 (unfairness of proceedings because of domestic court's allegedly unfair assessment of the applicant's evidence and arguments)	Inadmissible for non-exhaustion of domestic remedies
		Nikolayenko (no. 52966/07)	Ill-treatment by police officers (no Article specified)	Struck out of the list (the applicant no longer wished to pursue the application)
UKRAINE	10 Apr. 2012	Plotnikova (no. 18308/05)	Articles 6 § 1 and Art. 1 of Prot. 1 (excessive length and alleged unfairness of civil proceedings in a property dispute)	Struck out of the list (the applicants no longer wished to pursue their application)
		Tychenok (no. 45131/06 and 10 others)	Delayed enforcement of judgment in the applicants' favour (no article specified)	Struck out of the list (unilateral declaration of the Government)

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 9 April 2012: [link](#)
- on 16 April 2012: [link](#)
- on 23 April 2012: [link](#)
- on 2 May 2012: [link](#)

The list itself contains links to the statement of facts and the questions to the parties. This is a tool for NHRs 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 Directorate of Human Rights.

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 NHRs 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 9 April 2012 on the Court's Website and selected by the Directorate of Human Rights

The batch of 9 April 2012 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Croatia, Greece, Hungary, Portugal, Russia, Switzerland, Turkey and Ukraine.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
CROATIA	21 Mar. 2012	Damjanac (no. 52943/10)	Alleged violation of Art. 1 of Prot. 1 – Deprivation of the applicant's pension for a period of thirteen months – Alleged violation of Art. 14 – Discrimination on grounds of the applicant's Serbian origin – Alleged

		violation of Art. 3 – Procedures and findings of domestic authorities amounting to a degrading treatment – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 13 – Lack of an effective remedy
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Communicated cases published on 16 April 2012 on the Court's Website and selected by the Directorate of Human Rights

The batch of 16 April 2012 concerns the following States (some cases are however not selected in the table below): Finland, Germany, Italy, Latvia, Malta, Poland, Romania, Russia, Sweden, Switzerland, the Czech Republic, the United Kingdom and Turkey.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
ITALY	30 Mar. 2012	Ambruosi (no. 46351/11)	Alleged violation of Articles 6 § 1, and/or 13 – Excessive length of proceedings, insufficient amount of compensation; and non-enforcement of judgment issued by “Pinto” jurisdiction
	26 Mar. 2012	De Cientis (no. 39386/10)	Alleged violation of Articles 2, 8, 5 and Art. 1 of Prot. 1 – Domestic authorities' alleged failure to take appropriate measures to eliminate waste and to rehabilitate a garbage dump
RUSSIA	28 Mar. 2012	Bubnov (no. 76317/11)	Alleged violation of Articles 3, 6 and 13 – Domestic court's refusal to release the applicant from detention, in view of the state of his health, amounting to his being sentenced to death – Alleged violation of Articles 3, 5 and 6 – Unlawfulness of pre-trial detention
THE UNITED KINGDOM	27 Mar. 2012	Ijaola-Jokesenumi (no. 45996/11)	Alleged violation of Article 14, taken in conjunction with Art. 8 – Unjustified discrimination due to domestic authorities' decision to treat the applicant as not being in priority need of housing assistance allegedly based on her, and her children's, national origin

Communicated cases published on 23 April 2012 on the Court's Website and selected by the Directorate of Human Rights

The batch of 23 April 2012 concerns the following States (some cases are however not selected in the table below): Croatia, Greece, Romania, Russia and Turkey.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
GREECE	5 Apr. 2012	B.M. (no. 53608/11)	Alleged violation of Art. 3 – Poor conditions of detention – Alleged violation of Articles 3 and 13 – Lack of an effective remedy to challenge the conditions of detention; shortcomings in domestic procedures concerning asylum – Alleged violation of Art. 5 § 1 – Domestic authorities' rejection of the applicant's claim for asylum amounting to his unlawful detention – Alleged violation of Art. 5 § 2 – Domestic authorities' alleged failure to inform the applicant of the reasons of his detention in a language he could understand – Alleged violation of Art. 5 § 4 – Applicant's inability to challenge the lawfulness of his detention
RUSSIA	5 Apr. 2012	Antayev and others (no. 37966/07)	Alleged violation of Art. 2 – Excessive level of lethal force allegedly used by domestic authorities; lack of an effective investigation in that respect – Alleged violation of Art. 3 – Beatings, assaults, distress and anguish suffered by the applicants during the searches of their homes by domestic authorities; lack of an effective investigation in that respect – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 14, taken in conjunction with Articles 2 and 3 – Alleged racial motives of the crime perpetuated against the applicants; lack of an effective investigation in that respect

Communicated cases published on 2 May 2012 on the Court's Website and selected by the Directorate of Human Rights

The batch of 2 May 2012 concerns the following States (some cases are however not selected in the table below): Azerbaijan, Finland, France, Georgia, Greece, Hungary, Latvia, Moldova, Poland, Romania, Russia, Slovakia, Slovenia, Spain, the Netherlands, and Turkey.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
FRANCE	12 Apr. 2012	O.A.M. (no. 21359/12)	Alleged violation of Art. 3 – Risk of ill-treatment in case of deportation to Somalia – Alleged violation of Art. 13 – Lack of an effective remedy in that respect
		Jodar and others (no. 2871/11)	Alleged violation of Art. 3 – Degrading conditions of detention in police custody (applicants' inability to lie down, 1,5m ² cells, etc.) and in "Camp Est" detention center – Alleged violation of Art. 6 – Alleged infringement of the applicant's right to a fair trial on account of the conditions of detention, which made it impossible for the applicants to prepare their defense – Alleged violation of Art. 6 § 1 – Alleged infringement of the applicants' right to remain silent
GREECE	13 Apr. 2012	Housein (no. 71825/11)	Alleged violation of Art. 3 – Poor condition of detention – Alleged violation of Art. 5 §§ 1 and 4 – Arrest and detention of the applicant in violation of his unaccompanied minor's status – Alleged violation of Art. 9 – Alleged infringement of the applicant's right to freedom of religion on account of the lack of appropriate meals served in detention
LATVIA	10 Apr. 2012	X. and Others (no. 27773/08)	Alleged violation of Art.6 – Decision to order genetic testing allegedly taken without respect for procedural safeguards – Alleged violation of Art.8 – No valid ground to order genetic testing
ROMANIA	13 Apr. 2012	ALB (no. 682/09)*	Alleged violation of Articles 3 and 5 – Alleged unlawful handcuffing during arrest
RUSSIA	13 Apr. 2012	Dmitriyevskiy and others (no. 22646/07)	Alleged violation of Art. 10 – Alleged interference with the applicants' right to freedom of expression on account of the dissolution of the NGO they were member of, for having published two articles blaming and criticizing the Russian authorities for the conflict in the Chechen Republic – Alleged violation of Art. 11 – Alleged infringement of the applicants' right to freedom of association on account of the dissolution of the afore-mentioned NGO
SPAIN	13 Apr. 2012	S.E. (no. 4982/12)	Alleged violation of Articles 2 and 3 – Risk of being killed and/or ill-treated in case of deportation to Nigeria – Alleged violation of Article 13 – Lack of an effective and suspensive remedy in that respect – Alleged violation of Art. 4 – Domestic authorities' alleged failure to take all the necessary measures to protect the applicant from trafficking in human beings and to carry out an effective investigation into the circumstances of her arrival in Spain

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

Grand Chamber referral request in Abu Qatada Case (19.04.2012)

On 17 January 2012 a Chamber of the European Court of Human Rights delivered a judgment in the case [Othman \(Abu Qatada\) v. the United Kingdom](#) (application no. 8139/09) in which it found that diplomatic assurances would protect Abu Qatada from torture but that he could not be deported to Jordan while there remained a real risk that evidence obtained by torture would be used against him. On Tuesday 17 April 2012, the Court received a letter from Omar Othman asking for his case to be referred to the Grand Chamber. Mr Othman considered that the Chamber, in its judgment of 17 January 2012, was wrong to decide that he would not be at risk of torture if deported to Jordan. The Panel will decide on whether the referral request complies with the conditions laid down in Article 43 of the European Convention on Human Rights for the admissibility of a referral request and, if so, whether the case should be referred to the Grand Chamber. Information about the working methods of the Grand Chamber Panel is set out in this document.

Election of new judge in respect of Belgium (25.04.2012)

The Parliamentary Assembly of the Council of Europe (PACE) elected on 24 April 2012 a new judge to the European Court of Human Rights in respect of Belgium. Paul Lemmens was elected, with an absolute majority of votes cast, for a term of office of 9 years starting on 13 September 2012. Judges

* Please note that the Court communicated on 13 April 2012 more than 100 similar cases to the Romanian authorities.

are elected by PACE from a list of three candidates nominated by each State which has ratified the European Convention on Human Rights ([Voting result](#) | [CVs of candidates](#)).

Part II: The execution of the judgments of the Court

Decisions on execution of European Court of Human Rights judgments

The Committee of Ministers of the Council of Europe published the [decisions and resolutions](#) adopted at its first special human rights meeting for 2012. Those decisions and resolutions concern the following states : Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Finland, France, Georgia, Greece, Hungary, Latvia, Moldova, Poland, Portugal, Romania, San Marino, Slovak Republic, Spain, Switzerland, Turkey and the United Kingdom

More information on the execution process and on the state of execution in cases pending for supervision as well as important reference texts (including the new working methods) can be found on the website of the [Committee of Ministers](#), on the special website of the [Department for the execution of the judgments of the European Court of Human Rights](#), and in the Committee of Ministers' [Annual Reports](#) on its execution supervision. The 2011 report was issued on 12 April 2012. **Please note that some of the decisions and resolutions adopted by the Committee of Ministers will be analyzed in forthcoming issues of the RSIF.**

Part III: General Agenda

The “General Agenda” presents events that either took place or were announced* during the period under observation (09.04 – 06.05.2012) for this RSIF.

April 2012

10 April 2012:

> Seminar on the “Impact of the economic crisis on labour law in Europe” in Brussels ([Read more](#))

20 April 2012:

> Conference on contemporary housing issues in a changing Europe in Galway ([Read more](#))

23-27 April 2012:

> Council of Europe Parliamentary Assembly – 2nd part of 2012 Session

> CPT visit to Belgium ([Read more](#))

* These are subsequently due to take place.

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

A. European Social Charter (ESC)

The decision on admissibility in the case *International Federation for Human Rights (FIDH) v. Belgium* (Complaint No. 75/2011) has been adopted (10.04.2012)

The European Committee of Social Rights adopted a decision on admissibility with regard to the case *International Federation of Human Rights (FIDH) v. Belgium*, (Complaint No. 75/2011) at its session on 22 March 2012 ([Read the decision](#) – [Read more](#)).

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

Report on France and response of the French Government (19.04.2012)

The CPT has published on 19 April 2012 the report on its visit to France from 28 November to 10 December 2010, together with the French Government's response. These documents have been made public with the authorisation of the French authorities. In its visit report, the CPT notes a number of positive developments. Legal reforms had been adopted or initiated in several fields of considerable interest to the Committee (e.g. police custody, prison matters and psychiatric care). However, some of the CPT's long-standing concerns had only been partly met by the action taken by the French authorities. During the 2010 visit, the CPT's delegation heard some allegations of excessive use of force by police officers at the time of apprehension and of blows inflicted shortly after apprehension. As regards prison-related matters, the CPT's delegation received no allegations of deliberate ill-treatment of inmates by prison staff in Le Havre and Poissy Prisons. Nevertheless, at Le Havre, some cases of excessive use of force by staff when dealing with incidents were reported to the delegation; the delegation also noted that there was an appreciable risk of inter-prisoner violence in that establishment. In the field of psychiatry, patients generally spoke positively about the manner in which they were treated by hospital staff. The delegation did receive a few allegations of ill-treatment of patients by certain members of the nursing staff of Paul Guiraud hospital complex and the Val de Lys-Artois public mental health establishment ([Read more](#)).

Report on Bosnia and Herzegovina (26.04.2012)

The CPT has published on 26 April 2012 the report on its visit to Bosnia and Herzegovina in April 2011, together with the response of the authorities from Bosnia and Herzegovina. The CPT's delegation received a considerable number of credible allegations of severe physical ill-treatment by the police. The alleged ill-treatment mostly concerned kicks and punches to the body and blows with batons; however, detailed allegations were also received of handcuffing in stress positions, the placing of plastic bags over the heads of suspects and the infliction of electric shocks. The majority of the allegations concerned the time when suspects were being questioned by crime inspectors in their offices, and the information gathered indicates that the infliction of ill-treatment is a frequent practice at Banja Luka Central Police Station. The CPT emphasises in its report that all means should be explored to ensure that a message of zero tolerance of ill-treatment reaches law enforcement officials at all levels. It recommends that an independent inquiry be carried out into the methods used by crime inspectors at Banja Luka Central Police Station. In the authorities' response, information is given on steps taken to examine allegations of ill-treatment. Notably, reference is made to ongoing criminal proceedings in relation to two cases raised in the report and to the fact that the Professional Standards Unit of the Ministry of Interior of Republika Srpska has been tasked to investigate whether disciplinary or criminal proceedings need to be instituted against any officers. Hardly any allegations of ill-treatment of inmates by staff were received in the prisons visited, with the exception of Banja Luka Prison. The delegation also found that significant steps had been taken to reduce inter-prisoner violence, particularly at Zenica Prison. In their response, the authorities state that internal investigations had shown that all use of means applied by prison officers at Banja Luka Prison was proportionate and in accordance with the law ([Read more](#) – [Read the report](#) – [Read the response of the authorities](#)).

C. European Committee against Racism and Intolerance (ECRI)

Europe's governments urged to act as economic gloom prompts rise in racism (03.05.2012)

European countries must learn to manage diversity or risk losing a rich pool of economic talent, ECRI has warned in its annual report. Welfare cuts, diminished job opportunities and a consequent rise in intolerance towards both immigrant groups and older historical minorities are worrying trends emerging from ECRI's country-by-country visits during 2011, the report reveals. Xenophobic rhetoric is now part of mainstream debate and extremists are increasingly using social media to channel their views, whilst discrimination against the Roma continues to worsen. The report regrets that some countries failed to manage the influx of migrants and asylum seekers in 2011, with excessively rapid returns and poor reception conditions. It calls on European governments to bolster the capacity of national human rights bodies rather than using the economic crisis as a reason to cut back their resources ([Read more](#) – [Read the report](#)).

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

[No work deemed relevant for the NHRSS for the period under observation]

E. Group of States against Corruption (GRECO)

Call on States to increase transparency of political funding (09.04.2012)

GRECO called on its member states to set up transparent systems for party and election campaign financing. In its annual activity report GRECO, while acknowledging an increase in regulatory efforts by states in this field, points out a number of shortcomings: - The transparency of some sources of income of parties, such as donations in kind, party membership fees, loans or sponsorship are often neglected by the legislation; - Anonymous donations are still possible in some countries; - Legislation in many countries does not include local party bodies and other entities involved in election campaigns; - Financial information is often not published in an easily accessible and timely way; - A large number of states fail to have a truly independent supervisory body and in some states such a body does not exist or has limited functions; - Sanctions are often weak, not flexible enough, limited in scope or not applied ([Read more](#) – [Read the report](#)).

Call on Italy to improve transparency in political party funding and to sanction corruption vigorously (11.04.2012)

GRECO identified critical shortcomings in the party funding system of Italy which must be addressed as a matter of priority. The control performed by public authorities over political funding is fragmented and formalistic, consisting of three different institutions with limited powers and no co-ordination either among themselves or with law enforcement bodies. GRECO urges political parties to develop their own internal control systems and to subject their accounts to independent audit ([Read more](#)).

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

Report on the 4th round assessment visit in Malta (24.04.2012)

The mutual evaluation report on the 4th assessment visit in Malta is now available for consultation. The report was adopted at MONEYVAL's 38th Plenary meeting (Strasbourg, 5-9 March 2012). 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 Malta is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is an update on major issues in the AML/CFT system in Malta ([Read the press release](#) – [Read the report](#)).

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

1st evaluation round: GRETA visits France (10.04.2012)

A GRETA delegation carried out a country visit in France from 26 to 30 March 2012. The visit was organised 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 (2010-2013) ([Read more](#)).

1st evaluation round: GRETA visits Poland (03.05.2012)

A GRETA delegation carried out a country visit to Poland from 23 to 27 April 2012. The visit was 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 (2010-2013) ([Read more](#)).

Part V: The inter-governmental work

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

COUNTRY	CONVENTION	RATIF.	SIGN.	DATE
BELGIUM	Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 117)	X		13 Apr. 2012
LUXEMBOURG	European Convention for the Protection of the Audiovisual Heritage (ETS No. 183)		X	2 May 2012
MALTA	Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182)	X		12 Apr. 2012
	Convention on Cybercrime (ETS No. 185)			
TURKEY	Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191)		X	12 Apr. 2012

B. Recommendations and Resolutions adopted by the Committee of Ministers

NATURE OF THE TEXT	TEXT NUMBER	OBJECT	DATE
Recommendation	CM/Rec(2012)5E	Recommendation to member States on the European Code of Ethics for Prison Staff	12 April 2012
Resolution	CM/ResCMN(2012)6E	Election of an expert to the list of experts eligible to serve on the Advisory Committee in respect of Montenegro	12 April 2012
	CM/Res(2012)4E	Appointment to the post of Deputy Secretary General	2 May 2012

C. Other news of the Committee of Ministers

Execution of Strasbourg Court judgments: considerable progress but concern about major structural problems (12.04.2012)

In 2011 the number of Strasbourg Court judgments found by the Council of Europe Committee of Ministers to have been fully executed by member States grew by almost 80% compared to 2010 (up to 816). Whilst the number of new cases remained high (1, 606), for the first time in ten years it decreased (by 6 %). The number of repetitive cases decreased by even more. The number of old cases still not fully executed after more than five years continued to grow (by 48 % from 2010 to 2011), and is a special source of concern. Most of these cases concern important structural problems. These are some of the main conclusions of the Committee of Ministers' annual report on its supervision of the execution of the judgments and decisions of the European Court of Human Rights, which was published on 12 April.

Brighton Conference: Final Declaration (20.04.2012)

Ministers and senior representatives from the Council of Europe's 47 member countries gathered in Brighton from 18 to 20 April to discuss possible reforms to the European Court of Human Rights. UK Justice Secretary and Lord Chancellor, The Rt Hon Kenneth Clarke MP, formally opened the conference, followed by the Secretary General of the Council of Europe, Thorbjørn Jagland, the President of the Council of Europe's Parliamentary Assembly, Jean-Claude Mignon, and the President of the European Court of Human Rights, Sir Nicolas Bratza ([Brighton declaration on the future of the European Court of Human Rights](#)).

Chairmanship of the Committee of Ministers UK Europe Minister Lidington urged continued cooperation on Court reform following Brighton conference (23.04.2012)

Governments must work together in a spirit of cooperation to ensure that the package agreed at the Brighton Conference for reform of the Court of Human Rights is brought into the European Convention of Human Rights by 2013, UK Europe Minister David Lidington told the Parliamentary Assembly on 23 April 2012. He also welcomed progress on other UK chairmanship priorities - promoting LGBT rights, the rule of law and regional and local democracy ([Read the speech](#) – [Watch the speech](#))

Declaration of the Chairman of the Committee of Ministers of the Council of Europe on the Sejdic & Finci case (25.04.2012)

The Chairman of the Committee of Ministers of the Council of Europe, and the United Kingdom Minister of Foreign Affairs, William Hague, published on 25 April 2012 the following statement: "As member States of the Council of Europe, it is for us to ensure that Bosnia and Herzegovina gives proper effect to the 2009 judgement of the European Court of Human Rights in the case of *Sejdic-Finci vs. Bosnia and Herzegovina*. As required by the Court's judgement, Bosnia and Herzegovina must adjust its constitution so that no individual is barred from standing for political office on the basis of their national or ethnic origin. I regret that the Joint Interim Commission of the BiH Parliament has not yet made sufficient progress towards full implementation of this judgement. As the European Council of the European Union made clear in March last year, until a credible effort is made to accomplish this, the European Union will be unable to bring into force its Stabilisation and Association Agreement with Bosnia and Herzegovina. I therefore hope to see significant and tangible progress towards full implementation by June, when the next Human Rights meeting of the Committee of Ministers will be held ([Read more](#))

Declaration of the Committee of Ministers on the death penalty (02.05.2012)

The Committee of Ministers re-affirmed its unequivocal opposition to the death penalty in all places and in all circumstances. We are convinced that its abolition contributes to the enhancement of human dignity and progressive development of human rights, of which the Council of Europe is the guarantor in Europe. The Committee of Ministers recalls the Council of Europe's pioneering work to promote the abolition of capital punishment through the adoption of Protocols No. 6 and No. 13 to the European Convention on Human Rights and the designation of 10 October as "European Day against the Death Penalty". The creation of a death penalty-free area in Europe and beyond is an objective shared by the 47 member States. The Committee of Ministers welcomes the fact that no executions have been carried out on the territory of its member States for the last fifteen years. At a global level, it also welcomes the fact that the number of countries resorting to capital punishment continued to decrease in 2011. The Committee of Ministers called on all countries which still apply the death penalty, including those holding observer status with the Council of Europe, to immediately apply a moratorium on executions as a first step towards abolition. The Committee of Ministers reaffirmed its commitment to continue its efforts to promote abolition in Europe and throughout the world.

Part VI: The parliamentary work

A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe (PACE)

[No text adopted during the period under observation]

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

➤ Countries

Azerbaijan: Monitoring Committee makes public an information note (26.04.2012)

PACE's Monitoring Committee made public an information note by the co-rapporteurs on the honouring of obligations and commitments by Azerbaijan Pedro Agramunt (Spain, EPP/CD) and Joseph Debono (Malta, SOC) on their fact-finding visit to Baku (31 January-2 February 2012). The note focuses on the state of democracy, human rights and freedoms ([Read the note](#)).

PACE delegation observed parliamentary and presidential elections in Serbia (27.04.2012)

A 20-member PACE delegation, led by Jean-Charles Gardetto (Monaco, EPP/CD), visited Serbia from 4 to 7 May 2012 to observe the parliamentary and presidential elections alongside observers from the Parliamentary Assembly of the OSCE and the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE. The delegation met the leaders of political parties running in the elections, the presidential candidates, the chairman of the Republican Electoral Commission and representatives of NGOs and the media, before being deployed around the country to observe the ballot on 6 May.

Presidential elections in Russia: a clear winner, but voter's choice limited and a lack of fairness (29.04.2012)

The 4 March presidential election in Russia showed "a clear winner with an absolute majority", but the voter's choice was limited, the electoral competition lacked fairness and an impartial referee was missing, according to the final report of PACE's delegation to observe the election. "Due to increased citizen awareness and involvement, these elections were more lively, better managed and more seriously observed," said the report, by delegation head Tiny Kox (Netherlands, UEL) ([Read more](#) – [Read the full report](#)).

Serbia's elections open and highly competitive, additional transparency needed (07.05.2012)

Serbia's parliamentary and early presidential elections on 6 May 2012 took place in an open and competitive environment but additional efforts are needed to improve the transparency of the election process and the functioning of the media, international observers said in a statement issued on 7 May 2012. Observers noted that voters were provided with a wide degree of choice between various political options and contestants were able to campaign freely. Most electoral stakeholders expressed a high degree of confidence in the professionalism of the election administration. On election day, commissions carried out their duties professionally. Certain procedural problems were noted but no serious incidents took place ([Read more](#)).

Armenian elections competitive and largely peaceful, but shortcomings undermined confidence in the process, observers said (07.05.2012)

Parliamentary elections in Armenia featured a vibrant and largely peaceful campaign, with overall balanced media coverage, but pressure on voters and a deficient complaints process created an unequal playing field, the international election observers said on 7 May 2012. Observers noted a campaign environment that generally respected freedoms of assembly and expression and candidates

were, for the most part, able to campaign freely. But the general lack of confidence in the integrity of the process amongst political parties and the general public is an issue of great concern ([Read more](#)).

➤ *Themes*

Safeguarding decent pensions for all (27.04.2012)

In order to safeguard decent pensions for all, and to address the dual challenge of ageing of the population and the current economic crisis, the PACE called on Council of Europe member states to “design national pension systems based on several pillars and a ‘mix’ of sources of pension income”, i.e. comprising both funded and pay-as-you-go components. Pay-as-you-go systems, based on intergenerational solidarity, should form the bedrock of pension schemes. In a resolution unanimously adopted on 27 April 2012, based on the report by Denis Jacquat (France, EPP/CD), the Assembly also called on member states to “find appropriate solutions for people with periods in which they have made no pension contributions” (such as those with family responsibilities) and for those who are less able to prepare for their retirement, such as people with disabilities or migrants ([Read more](#)).

PACE seeks global tax transparency and stronger policies on tax havens (27.04.2012)

PACE has demanded a series of steps to end what it calls “massive tax avoidance, evasion and fraud” caused by secrecy jurisdictions, tax havens and offshore financial centres. Adopting a resolution based on a report by Dirk van der Maelen (Belgium, SOC), the parliamentarians said tackling global distortions due to harmful or predatory tax practices – including bank secrecy, lack of transparency and effective public oversight, regulatory dumping, predatory tax arrangements and abusive accounting techniques within multinational companies – was “a moral duty” because they drain public finances and cause serious harm to the public interest ([Read more](#)).

A solution to the crisis of values: more Europe (07.05.2012)

“Beyond the economic crisis, Europe is facing a more serious crisis of values, as shown by the rise in populism and extremism in several European countries,” said Jean-Claude Mignon, President of PACE, speaking on the eve of Europe Day (8 May). “Europe is in a period of great uncertainty. Citizens distrust politics and feel disoriented, while unscrupulous leaders profit from this weakness to seek political advantage by inciting hatred and promising miracles which undermine the social, economic and political achievements of our continent. Some are tempted by these siren calls ([Read more](#)).

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

Improving human rights protection at national level (19.04.2012)

In a speech given on 19 April 2012 at the High Level Conference on the Future of the European Court of Human Rights, in Brighton (United Kingdom), Commissioner Muižnieks affirmed that he intends to contribute to a better protection of human rights at national level by supporting the implementation of the European Convention standards by member States. “The Convention system is essential to many individuals who feel that their rights have not been protected. I will address the systematic failure to implement the Convention, particularly the shortcomings within national judicial systems” ([Read more – Read the speech](#)).

National Human Rights Structures can help mitigate the effects of austerity measures (31.05.2012)

Effective protection of human rights at national level requires good laws and efficient judiciaries – but also strong, independent national human rights structures (NHRs). This need is especially evident in times of crisis and austerity, says Nils Muižnieks, Council of Europe Commissioner for Human Rights, in his first Human Rights [Comment](#) published on 31 May.

NHRs – independent commissions, general or specialised ombudsmen, equality bodies, police complaints mechanisms and similar institutions – protect human rights for everybody, but they are particularly important to the most vulnerable groups. They provide an easily accessible helping hand to children, older persons, people with disabilities, Roma, migrants, asylum-seekers and refugees. ([Read more](#)).

Part VIII: Activities and news of the Peer-to-Peer Network (under the auspices of the Directorate of Human Rights)

Methodology for visits by members of national parliaments to places of detention of irregular migrants and asylum seekers in Europe (25.04.2012)

The Parliamentary Assembly of the Council of Europe has set up a Sub-Committee to look at issues concerning detention of irregular migrants and asylum seekers. One area which the Sub-Committee plans to look at is the role of Parliamentarians in visiting places of detention of irregular migrants and asylum seekers. Within the Secretariat of the Council of Europe there is already a great deal of expertise on the issue of visits to places of detention, not only in the CPT (Committee for the Prevention of Torture) but also in the Office of the Commissioner for Human Rights, the Secretariat of the Assembly as well as in the newly established Migration Co-ordination and the European NPM Project team in DG I that has set up and is nurturing a network of all the National Preventive Mechanisms against torture that exist in Council of Europe members states. Members of the Secretariat met together on Wednesday 25 April to discuss with members of UNHCR, ICRC and APT (Association for the Prevention of Torture) how to assist Parliamentarians in carrying out visits to detention centres for irregular migrants and to examine the possibility of working with Parliamentarians on a handbook and practical training courses for those of them who wish to conduct visits to such places. As a result of the interest shown by participants at the meeting, it was decided to hold a follow up meeting during the June Part Session of the Assembly to see how to develop further the ideas put forward.

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