

DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW

DIRECTORATE OF HUMAN RIGHTS



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“Promoting independent national non-judicial mechanisms for the protection of human rights,
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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**

Putintseva v. Russia (no. 33498/04) – Importance 2 – 10 May 2012 – Violation of Article 2 (substantive) – Domestic authorities’ general failure to comply with their obligation under Article 2 to secure the right to life by putting in place an appropriate legal framework on the use of force and firearms by military sentries – No violation of Article 2 (procedural) – Effective investigation into the use of lethal force by domestic authorities

While performing his mandatory military service, the applicant’s son left the military unit without permission. Arrested three days later, he was placed in a disciplinary cell in punishment. During his detention, he hit a junior sergeant. Following the incident, a medical examination of both men was ordered. While escorting the applicant’s son from the military hospital back to the detention unit, the junior sergeant, in an attempt to prevent him from escaping, fired at the applicant’s son and wounded him in the buttock. He died from the gunshot wound. The applicant complained that her son had been killed as a result of the unnecessary use of firearms by a State agent and that the authorities had failed to conduct an effective investigation into her son’s death

Article 2 (procedural)

The Court observed in particular that the criminal investigation into the applicant’s son’s death had been carried out by people independent from the personnel of the garrison. The investigation had been opened immediately after the shooting and key investigative measures had been taken on the same day or shortly after. Following the closing and reopening of the investigation, the investigators had followed the instructions from the higher-ranking prosecutor and had performed a number of additional examinations. The Court was therefore satisfied that the authorities had taken reasonable steps to promptly secure the evidence concerning the incident and to establish the circumstances in

which it had taken place. There had thus been no violation of Article 2 as regards the obligation to carry out an effective investigation.

Article 2 (substantive)

Having found that the Russian authorities had conducted a thorough, independent and effective investigation, the Court did not see any reason to depart from their factual findings. The Court noted that the legal basis for the use of deadly force against the applicant's son, called for nondiscretionary use of lethal force to prevent the escape of a member of the armed forces from detention, to which he could have been sentenced for even a minor disciplinary offence. Apart from requiring a general warning that a firearm would be used, that provision did not contain any other safeguards to prevent the arbitrary deprivation of life. It did not make the use of firearms dependent on an assessment of the surrounding circumstances, and, most importantly, did not require an evaluation of the nature of the offence committed by the fugitive and of the threat he or she posed. The Court found that such a legal framework was fundamentally deficient and fell short of the level of protection "by law" of the right to life required by the Convention. There was therefore a general failure by Russia to comply with its obligation under Article 2 to secure the right to life by putting in place an appropriate legal framework on the use of force and firearms by military sentries.

As regards the actual use of force, the Court observed that the junior sergeant had to have been aware of the fact that the applicant's son had been unarmed and did not represent a danger to the convoy or third parties. Furthermore, other means would have been available to prevent the escape of the applicant's son, in particular given that he had passed through the guarded gates of the hospital, that he had been running away in the middle of the day and that the personnel of the military unit had cars. The authorities had thus failed to minimise recourse to lethal force. The Court therefore concluded that there had been a violation of Article 2.

Article 41 (just satisfaction)

The Court held that Russia was to pay the applicant EUR 45,000 in respect of non-pecuniary damages.

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

[Kaverzin v. Ukraine](#) (no. 23892/03) – Importance 2 – 15 May 2012 – Four violations of Article 3 (substantive and procedural) – (i) Ill-treatment in police custody; lack of adequate medical care; unjustified handcuffing of a blind person while in detention and (ii) lack of an effective investigation into allegations of torture – Application of Article 46 – Domestic authorities' obligation to put in place specific reforms in the legal system to ensure that the practice of ill-treatment in police custody is eradicated and that effective investigations are carried out into every single case where there is an arguable complaint of ill-treatment

Considered exceptionally dangerous, the applicant is currently serving a life prison sentence in a high security prison. He alleged that he had been tortured by the police following his arrest in order to make him confess to the crimes of which he stood accused. He also complained that his allegation had not been adequately examined, and that, not given adequate medical care or treatment, he had gone completely blind. Finally, he complained that, despite his disability, he had been handcuffed at all times when leaving his cell.

Article 3 (substantive)

Torture: Given the medical evidence available as well as the parties' submissions, the Court considered that the police were entirely responsible for the applicant's injuries. Moreover, the applicant's allegations, which he had repeatedly insisted on, were plausible overall, in contrast to the Government's arguments which had failed to substantiate their denials of torture. Given the gravity of the applicant's injuries, which had to have been inflicted on him deliberately, the Court found that the ill-treatment to which he had been subjected in police custody had to be classified as torture, in violation of Article 3.

Medical care: The Court noted in particular that the authorities had been responsible for the applicant's eye injury which had eventually led him to go blind. Doctors had only noted the injury about a week after it had allegedly been sustained, had only established that he had gone blind about a month later and had not given him any treatment for the injury or even had him examined by an ophthalmologist until September 2001. Therefore the injury had not actually been treated at all for eight months. The authorities had then failed to react promptly to the applicant's injury or to the deterioration in his eyesight and had not provided him with adequate medical care between January and September 2001. Accordingly, there had been a third violation of Article 3 in that respect.

Handcuffing: The applicant's criminal record and his classification as exceptionally dangerous arguably called for him being held in the highest level of security conditions. However, there was nothing to suggest that he had tried to escape or had been violent during his pre-trial detention or subsequently. His handcuffing, particularly with his hands behind his back, despite his being completely blind had therefore to have caused him suffering and humiliation which had gone beyond that inevitably connected with a particular form of legitimate punishment. The Court therefore found that the use of handcuffs in detention had constituted inhuman and degrading treatment in violation of Article 3.

Article 3 (procedural)

An inquiry into the allegations of torture was carried out by a prosecutor once he had noted the applicant's injuries and it was completed within a relatively short period of time. The prosecutor's findings, however, had been vague and confusing and had not established the course of events or how exactly the applicant had sustained his injuries. The prosecutor had made no attempt whatsoever to look into the lawfulness or proportionality of using force against him during his arrest or indeed into his allegations of torture after his arrest, simply relying on his initial statement denying ill-treatment. Nor did the courts dealing with the applicant's criminal case examine in any way his allegation that his confession had been made under duress. The Court therefore found that the Ukrainian authorities had failed to adequately investigate the applicant's complaints of torture, in further violation of Article 3.

Article 46

The Court noted that the applicant's ill-treatment in police custody reflected a recurring problem in Ukraine. In about 40 of its judgments, the Court had already found that the Ukrainian authorities had been responsible for ill-treatment of people held in police custody and that no effective investigation had been carried out into their allegations of ill-treatment. Currently there are more than 100 other such cases pending. The Court therefore stressed that Ukraine had to urgently put in place specific reforms in its legal system to ensure that the practice of ill-treatment in police custody was eradicated, that effective investigations were carried out into every single case where there was an arguable complaint of ill-treatment and that any shortcomings in such investigations should be effectively remedied at domestic level.

Article 41 (just satisfaction)

The Court held that Ukraine was to pay the applicant EUR 40,000 in respect of non-pecuniary damages.

Labsi v. Slovakia (no. 33809/08) – Importance 2 – 15 May 2012 – Violation of Article 3 – Ill-treatment resulting from the applicant's deportation to Algeria – Violation of Article 13 – Deprivation of the applicant's right to attempt to obtain redress of a Supreme Court's judgment by means of constitutional complaint – Violation of Article 34 – Deportation of the applicant in violation of interim measures issued by the Court

The case concerned the expulsion of an Algerian man from Slovakia to Algeria, following his unsuccessful asylum request. The applicant complained that his expulsion exposed him to the threat of being ill-treated by Algerian authorities. He further alleged that he did not have an effective remedy in respect of that complaint. Finally, he complained that the Slovak Government had disregarded the interim measure issued by the Court.

Article 3

The Court noted that the Algerian authorities had indicated to the Slovak Government that, if returned to Algeria, the applicant would have a fair fresh trial in respect of offences which were not punishable by the death penalty, and that torture and other forms of ill-treatment were subject to heavy penalties under Algerian criminal law. Those assurances were of a general nature and had to be considered in the light of the information available at the time of the applicant's expulsion as to the human rights situation in Algeria. In August 2008, the Slovak Supreme Court, with reference to a number of international documents, had found that his extradition was not permissible, concluding that there were justified reasons to fear that he would be exposed to treatment contrary to Article 3 in Algeria. Furthermore, a number of reports from international bodies and organisations had highlighted that individuals suspected of terrorist activities were exposed to a real risk of ill-treatment by the Algerian Department of Intelligence and Security. In view of the documents before it, the Court found no reason for reaching a different conclusion in the applicant's case. Accordingly, at the time of his expulsion, there had been substantial grounds for believing that he faced a real risk of being subjected to treatment contrary to Article 3 in Algeria. The Slovak Government's argument that the expulsion had

nevertheless been justified because he represented a security risk could not be accepted, the guarantee under Article 3 being absolute.

Article 13

The Court observed that, expelled to Algeria only one working day after the Supreme Court's judgment of March 2010 upholding the dismissal of his asylum request, the applicant had been effectively prevented from attempting to obtain redress by means of a constitutional complaint.

Article 34

The applicant's expulsion to Algeria, in disregard of the interim measure issued by the Court, had prevented the Court from properly examining his complaints in accordance with its settled practice and from protecting the applicant against treatment contrary to Article 3. His expulsion had occurred prior to the exchange of observations of the parties and his representative has lost contact with him since then. The gathering of evidence in support of his allegations had thus proved more complex. Accordingly, there had been a violation of the applicant's right of individual application as guaranteed by Article 34.

Article 41 (just satisfaction)

The Court held that Slovakia was to pay the applicant EUR 15,000 in respect of non-pecuniary damages and EUR 2,500 in respect of costs and expenses.

S.F. and others v. Sweden (no. 52077/10) – Importance 2 – 15 May 2012 – Violation of Article 3 – Risk of ill-treatment in case of deportation to Iran

The applicants are an Iranian family who fled Iran in fear of persecution because of the involvement of family members with a Kurdish-rights political party. They complained that they would be tortured or otherwise ill-treated if deported to Iran.

With regard to the human rights situation in Iran, the Court observed that it gave rise to grave concern as it appeared to have been deteriorating since the Swedish authorities determined the case. Information available on Iran from a number of international sources showed that the Iranian authorities frequently detained and ill-treated people who peacefully participated in opposition or human rights activities. The Court found that the applicants' activities in Iran were not, on their own, sufficient to conclude that a real and immediate risk existed of them being ill-treated if returned to Iran. On the other hand, the Court found that their activities in Sweden had intensified and grown in importance since 2008. Furthermore, the information available on Iran showed that the Iranian authorities effectively monitored internet communications as well as those critical of the regime, even outside Iran. In addition, given the applicants' activities and incidents in Iran before moving to Sweden, the Court concluded that the Iranian authorities would easily identify them. That conclusion was also supported by the fact that the applicants did not have valid identity documents and had allegedly left Iran illegally. With regard to all the above, the Court held that a real risk existed of the applicants being ill-treated if returned to Iran. There would, therefore, be a violation of Article 3 if Sweden deported them to Iran.

Under Article 41 (just satisfaction), the Court held that Sweden was to pay the applicants EUR 1,240 in respect of costs and expenses.

- **Right to a fair trial**

Albu v. Romania (nos. 34796/09 and 63 others) – Importance 2 – 10 May 2012 – No violation of Article 6 – No breach of the principle of legal certainty on account of divergent domestic courts practices on salary-related benefits

The case concerned the complaints of 64 civil servants that their claims for salary-related benefits were wrongfully dismissed in an unfair trial. They notably alleged that the national courts had not taken into consideration other rulings on similar claims brought by their fellow civil servants across the country in which such allowances were granted.

For the Court, it was important to establish whether “profound and long-standing differences” existed in the case-law of the domestic courts, whether the domestic law provided for machinery for overcoming those inconsistencies, whether that machinery had been applied and, if appropriate, to what effect. In the applicants' case, the Court was concerned about the large scale of divergent domestic court practices on the same legal matter, as that could create a state of legal uncertainty likely to reduce public confidence in the judicial system. That was why, it held, an effective mechanism had to be in place and implemented promptly by the highest courts responsible for ensuring case-law

uniformity, so as to rectify, at the appropriate juncture, any inconsistencies and thus maintain public confidence in the judicial system. The applicants had had the benefit of adversarial proceedings, during which they had freely submitted evidence and formulated their defence which had then been properly examined by the courts. The High Court's judgment of September 2009 had laid down binding guidelines for the uniform interpretation of the relevant law, which had brought the divergence on that question to an end. The decision on the applicants' complaints had been taken before the High Court had had the opportunity to give a uniform interpretation of the legal texts in issue. The Court observed that achieving consistency of the law might take time, and periods of conflicting case-law might therefore be tolerated without undermining legal certainty. Given that the issue had been promptly resolved in the Romanian legal system, the Court concluded that there had been no breach of the principle of legal certainty. Consequently, there had been no violation of Article 6.

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

Fernández Martínez v. Spain ([in French only](#)) (no. 56030/07) – Importance 2 – 15 May 2012 – No violation of Article 8 – Religious' authorities decision not to renew the teaching contract of a married and father of five priest does not infringe his right to respect for private and family life

The applicant was ordained as a priest in 1961. In 1984, he applied to the Vatican for dispensation from celibacy. He was married in a civil ceremony, and he and his wife have five children. He taught Catholic religion and morals in a State high school from October 1991, his contract being renewed every year. In 1996 a newspaper published an article about the "Movement for Optional Celibacy" for priests, reporting that the applicant, a member of the movement, had previously been rector of a seminary. Following that publication, the Diocese of Cartagena decided not to renew the applicant's contract. The applicant alleged that this decision had infringed his right to respect for his private and family life. He complained that he had been discriminated against and that the public disclosure of his status as a married priest with several children formed part of his freedom of expression.

The Court observed in particular that under Spanish law, the concept of autonomy of religious communities was accompanied by the principle of State religious neutrality, which prevented the State from expressing a position on matters such as celibacy for priests. Admittedly, this obligation of neutrality was not unlimited. The Constitutional Court had confirmed on 4 June 2007 that restrictions could be imposed in this sphere through judicial review of decisions by the bishop, who was required to respect fundamental rights and freedoms. However, definition of the religious or moral criteria serving as a basis for not renewing a candidate's contract was the exclusive prerogative of the religious authority. The domestic courts could weigh up the competing fundamental rights at stake and examine whether the decision not to renew the contract had been based on anything other than strictly religious factors, those being the sole aspects protected by religious freedom. The Court observed that the applicant had had the opportunity to bring his case before the employment tribunal and the Murcia High Court of Justice, and had ultimately been able to lodge an "amparo appeal" with the Constitutional Court. Moreover, the decision dispensing him from celibacy had specified that anyone granted such a dispensation was barred from teaching the Catholic religion in public institutions except by permission of the bishop. The Court considered that the grounds on which the applicant had not had his contract renewed were of a strictly religious nature. The requirements of the principles of religious freedom and neutrality precluded it from carrying out any further examination of the necessity and proportionality of the decision not to renew his teaching contract. Since the competent courts had struck a fair balance between several private interests, the Court found that there had been no violation of Article 8.

Ad hoc Judge Saiz Arnaiz expressed a separate opinion

- **Freedom of expression**

Frasilă and Ciocirlan v. Romania ([in French only](#)) (no. 25329/03) – Importance 1 – 10 May 2012 – Violation of Article 10 – Domestic authorities' failure to assist the applicant in securing the enforcement of a final judicial decision ordering third parties to grant the applicant access to the editorial office of a radio station where they worked as journalists

In 1995, one of the applicants set up a television and radio production company, Tele M, and in 1999 he set up another audiovisual production company, Radio M Plus. In 2002, following political and financial pressure, this applicant sold Tele M. Subsequently, Radio M Plus, which he still managed, and Tele M formed a partnership for the production and broadcasting of radio programmes. The decision on the implementation of the partnership agreement specified that the radio station's activities would be carried out on the second floor of the building where the radio production and broadcasting studios were located. From October 2002 this applicant and the other one, who was employed as

editor of the radio station, were refused access to the editorial office by representatives of Tele M. They made an urgent application to the courts, seeking the enforcement of their right of access to the radio station's editorial office. They complained that the authorities had failed to assist them in securing the enforcement of the final judicial decision ordering third parties to grant them access to the editorial office at the radio station where they worked as journalists

The Court reiterated in particular that the State was the ultimate guarantor of pluralism and that this role became even more crucial where the independence of the press was at risk as a result of outside pressure from those holding political and economic power. The Court observed that according to various reports, the situation of the press in Romania had been unsatisfactory at the relevant time and the local press had been directly or indirectly controlled by leading political or economic figures in the region. Furthermore, the first applicant alleged that he had been subjected to political and economic pressure, resulting in the sale of part of his stake in a television company. In those circumstances, the Court concluded that the national authorities had been under an obligation to take effective steps to assist the applicants in securing the enforcement of the domestic court decision. As to whether the State had complied with this positive obligation, the Court observed that the applicant had taken sufficient steps on their own initiative and made the necessary efforts to secure the enforcement of the court decision, but that the main legal means available to them for achieving this, namely the bailiff system, had proved inadequate and ineffective. Accordingly, the Court found that by refraining from taking the necessary measures to assist the applicant in the enforcement of the court decision, the national authorities had deprived the provisions of Article 10 of the Convention of all useful effect. There had therefore been a violation of that Article.

Under Article 41 (just satisfaction), the Court held that Romania was to pay the applicants EUR 18,000 jointly, covering all heads of damage, and EUR 5,500 to the first applicant in respect of costs and expenses.

- **Prohibition of discrimination**

Özgürlük Ve Dayanışma Partisi (ÖDP) v. Turkey (in French only) (application no. 7819/03) – Importance 2 – 10 May 2012 – No violation of Art. 14 in conjunction with Article 3 of Protocol No. 1 – Domestic authorities' legitimate and proportionate refusal to grant direct public financing to a political party

The case concerned the refusal to grant direct public financing, provided for by the Turkish Constitution, to a political party, the ÖDP, which did not meet the minimum representativeness criterion. The applicant party alleged that, by refusing to grant it the funding given to other parties, on the ground that it had obtained less than 7% of the votes cast in previous parliamentary elections, the State had discriminated against it, placing it at a disadvantage in the 1999, 2002 and 2007 electoral campaigns. In so doing, the State had infringed the free expression of the opinion of the people in the choice of the legislature.

The Court noted that the applicant party had been treated differently in exercising its electoral rights under Article 3 of Protocol No. 1 on account of the use of the system in question. It was clear that the ÖDP, having received no funding, was disadvantaged by the system for the public funding of political parties in comparison to its rivals, which received assistance and were able to fund the dissemination of their opinions at national level much more easily. The Court must ascertain whether the system in question pursued a legitimate aim and whether there was a reasonable relationship of proportionality between the means employed and the aim pursued. The Court observed in particular that the public funding of political parties pursued the legitimate aim of strengthening democratic pluralism while avoiding excessive and dysfunctional fragmentation of the candidacies. With regard to the proportionality of the difference in treatment between the ÖDP and the other parties, while noting that the 7% representativeness threshold in Turkey was the highest in Europe, the Court noted that political parties represented in the Turkish Parliament during the period in question had not monopolised public funding, nor indeed had the party in power or the main opposition party. In addition, the ÖDP had not shown that it enjoyed a level of support from the Turkish electorate that conferred on it significant representativeness. The Court further observed that the ÖDP had benefited from the corrective measures made available by the Turkish State to support political parties, namely indirect funding such as tax exemptions or the allocation of media time during electoral campaigns. In those circumstances, the Court held that the difference in treatment had been reasonably proportionate to the aim pursued and had not impaired the very essence of the right to the free expression of the opinion of the people. The Court found that there had been no violation of Article 14 in conjunction with Article 3 of Protocol No. 1.

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 10 May 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 15 May 2012: [here](#)

STATE	DATE	CASE TITLE	IMP.	CONCLUSION	KEY WORDS
AUSTRIA	10 May 2012	Aigner (no. 28328/03)	3	No violation of Art. 6	Domestic courts' refusal to put further question to witnesses in criminal proceedings does not amount to an infringement of the applicant's right to a fair hearing
		A.L. (no. 7788/11)	3	No violation of Art. 3	No risk of ill-treatment in case of deportation to Togo
BULGARIA	10 May 2012	Madah and Others (no. 45237/08)	3	Violation of Art. 8	Unlawful interference with the applicant's right to respect for family life in case of deportation to Iran
				Violation of Art. 13 in conjunction with Art. 8	Lack of an effective remedy in that respect
BULGARIA	10 May 2012	Rahmani and Dineva (no. 20116/08) <i>(in French only)</i>	2	Violation of Art. 5 § 4	Lack of an effective remedy to challenge the lawfulness of the applicant's detention
GREECE	10 May 2012	Liantis (no. 16906/10) <i>(in French only)</i>	2	No violation of Art. 3	Adequate medical care concerning the applicant's hyperostosis
				Violation of Art. 3	Domestic authorities' failure to provide the applicant with adequate back surgery
				Violation of Art. 13	Lack of an effective remedy in that respect
ITALY	10 May 2012	Sud Fondi Srl and Others (no. 75909/01) <i>(in French only)</i>	3	Just satisfaction	Just satisfaction in respect of the judgment of 20 April 2009
MOLDOVA	15 May 2012	I.G. (no. 53519/07)	3	Violation of Art. 3	Lack of an effective investigation into allegations of rape
		Plotnicova (no. 38623/05)	3	Violation of Art. 3	Poor condition of detention and lack of adequate medical care
		Sochichiu (no. 28698/09)	3	Violation of Art. 6 § 3	Domestic courts' failure to hear witnesses and to order the translation of key documents
ROMANIA	10 May 2012	R.I.P. and D.L.P. (no. 27782/10) <i>(in French only)</i>	3	Violation of Art. 3	Ill-treatment by police officers; lack of an effective investigation in that respect
RUSSIA	10 May 2012	Bezrukovy (no. 34616/02)	2	Violation of Article 6 and Art.1 of Prot. 1	Quashing of a judgment in the applicant's favor
		Chelkidi (no. 35368/04)	3	Violation of Art. 6 § 1	Denial of the applicant's right of access to a Court on account of domestic courts' refusal to examine her claim against the Ministry of Finance
SWEDEN	15 May 2012	H.N. (no. 30720/09)	3	No violation of Articles 2 and 3	Applicant's failure to make it plausible that he would face a risk of being killed or subjected to ill-treatment upon return to Burundi

* The “Key Words” in the various tables of the RSIF are elaborated under the sole responsibility of the Directorate of Human Rights

		Nacic and Others (no. 16567/10)	2	No violation of Art. 3	Applicants' failure to establish that there are substantial ground for believing that deportation to Kosovo and Serbia would amount to ill-treatment
				No violation of Art. 8	Domestic authorities' struck a fair balance between the applicants' right to respect for their private and family life and the economic well-being of Sweden concerning domestic authorities' refusal to grant the applicants a resident permit
UKRAINE	15 May 2012	Grigoryev (no. 51671/07)	3	Violation of Art. 3	Lack of an effective investigation into the applicant's allegation of torture by police officers
				Violation of Art. 6 §§ 1 and 3	Placement of the applicant under administrative arrest to ensure his availability for questioning as a criminal suspect while not respecting his procedural rights

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
RUSSIA	10 May 2012	Glotov (no. 41558/05)	Violation of Art. 3	Poor conditions of detention
UKRAINE	15 May 2012	Firma Veritas Tov (no. 2217/07)	Violation of Art. 6 § 1	Supreme Court's lack of jurisdiction to quash a judgment in the applicant's favor

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
BULGARIA	10 May 2012	Kotsev and Ermenkova (no. 33864/03)	Link
SLOVENIA	15 May 2012	Madzarevic (no. 38975/05)	Link
		Rijavec (no. 36349/05)	Link
UKRAINE	10 May 2012	Tsygankov (no. 27552/08)	Link

B. The decisions on admissibility / inadmissibility / striking out of the list including 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 23 April to 6 May 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
UKRAINE	2 May 2012	Roman (no. 26678/07 and 36 others)	Delayed enforcement of judgments 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 7 May 2012: [link](#)
- on 14 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 7 May 2012 on the Court's Website and selected by the Directorate of Human Rights

The batch of 7 May 2012 concerns the following States (some cases are however not selected in the table below): Bulgaria, Estonia, Lithuania, Russia, the Netherlands, the United Kingdom, Turkey, and Ukraine.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
RUSSIA	18 Apr. 2012	Kulevskiy (no. 20696/12)	Alleged violation of Articles 2 and 3 – Risk of being killed or subject to ill-treatment in case of deportation to Belarus
THE NETHERLANDS	17 Apr. 2012	K. (no. 11804/09)	Alleged violation of Art. 8 – Allegedly unlawful taking of cellular material from the applicant's body; taking of cellular material while the applicant was a minor; domestic authorities' failure to inform the applicant that he could be assisted by a lawyer
THE UNITED KINGDOM	17 Apr. 2012	Macdonald (no. 4241/12)	Alleged violation of Art. 8 – Interference with the applicant's right to respect for private life on account of the withdrawal of a night-time care service for disabled persons

Communicated cases published on 14 May 2012 on the Court's Website and selected by the Directorate of Human Rights

The batch of 14 May 2012 concerns the following States (some cases are however not selected in the table below): France, Sweden, Ukraine.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
FRANCE	24 Apr. 2012	Magomadova (no. 24587/12) (in French only)	Alleged violation of Art. 3 – Administrative detention, in allegedly poor condition and from April 18 to April 24 2012, of the applicant and her two very young children pending their extradition to Poland – Alleged violation of Art. 5 §§ 1 f) and 4 – Unlawful detention and lack of effective remedy to challenge it – Alleged violation of Art. 8 – Alleged infringement of the applicant's right for her private life on account of her detention
SWEDEN	27 Apr. 2012	Hagenfeldt Advokatbyrå AB (no. 18700/09)	Alleged violation of Art. 6 § 1 – Domestic authorities' failure to observe the requirement of independence and organizational impartiality on account of a civil servant of the Tax Agency permitted to sit as judge in the Administrative Court of Appeal – Alleged violation of Art. 6 § 1 in conjunction with Art. 13 – Lack of an effective remedy in that respect – Alleged violation of Articles 8 and 1 of Prot. 1 – Domestic courts and authorities' decisions giving access to the applicant's premises and leading to the seizure of property

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

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

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 is due to be 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 (07.05 – 20.05.2012) for this RSIF.

May 2012

> 12 May:

- Seminar on the collective complaint procedure in Rome, Italy ([Programme](#))

> 19-20 May:

- Resocialising Europe, an international conference in London ([Read more](#) | [Programme](#))

> 21-24 May:

- 257th session of the European Committee of Social Rights (Strasbourg)

* These are subsequently due to take place.

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

A. European Social Charter (ESC)

Two complaints registered against France (11.05.2012)

The case *Action européenne des handicapés (AEH) v. France*, [Complaint No. 81/2012](#), concerns the problems regarding access of autistic children and adolescents to education and access of young adults with autism to vocational training. The case *Comité européen d'action spécialisée pour l'Enfant et la Famille dans leur milieu de vie (EUROCEF) v. France*, [Complaint no. 82/2012](#), concerns the suspension of family allowances in cases of truancy.

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

The CPT visited Bulgaria (14.05.2012)

The CPT carried out an ad hoc visit to Bulgaria from 4 to 10 May 2012. The main objective of the visit was to review the current situation as regards the treatment and conditions of prisoners in establishments under the responsibility of the Ministry of Justice. For this purpose, the CPT's delegation visited Burgas and Varna Prisons. The delegation held consultations with Plamen GEORGIEV, Deputy Minister of Justice and Mitko DIMITROV, General Director of the General Directorate of Execution of Sanctions, as well as with other senior officials from the Ministries of Justice and Health. At the end of the visit, the delegation presented its preliminary observations to the Bulgarian authorities ([Read more](#)).

C. European Committee against Racism and Intolerance (ECRI)

ECRI to prepare report on the Russian Federation (11.05.2012)

An ECRI delegation visited the Russian Federation from 20 to 27 April 2012 as the first step in the preparation of a monitoring report. During its visit, ECRI's delegation gathered information on the implementation of the recommendations it made to the authorities in its 2006 report and discussed new issues that have emerged since ([Read more](#)).

ECRI to prepare report on Malta (11.05.2012)

An ECRI delegation visited Malta from 24 to 27 April 2012 as the first step in the preparation of a monitoring report. During its visit, ECRI's delegation gathered information on the implementation of the recommendations it made to the authorities in its 2008 report and discussed new issues that have emerged since ([Read more](#)).

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

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

E. Group of States against Corruption (GRECO)

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

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

Fourth Evaluation Round on-site visit to Lithuania (07.05.2012)

The MONEYVAL team responsible for the evaluation of Lithuania in the fourth round went to Vilnius between 23 and 28 April. The team met representatives of the various competent authorities as well as of a variety of financial institutions and other businesses and professions subjected to anti-money laundering and anti-terrorist financing requirements. The report is scheduled for discussion at the 40th Plenary meeting (3-7 December 2012).

MONEYVAL report on the 4th round assessment visit in Andorra (15.05.2012)

The mutual evaluation report on the 4th assessment visit in Andorra is now available for consultation ([Press release](#) | [Executive summary](#) (in French only) | [Report](#) (in French only))

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

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

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
ARMENIA	Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108)	X		9 May 2012
	Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (ETS No. 181)			
AZERBAIJAN	Third Additional Protocol to the European Convention on Extradition (CETS No. 209)		X	14 May 2012
BULGARIA	Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)		X	11 May 2012

B. Recommendations and Resolutions adopted by the Committee of Ministers

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

C. Other news of the Committee of Ministers

Declaration of the Committee of Ministers on the situation in Syria (11.05.2012)

The Committee of Ministers condemned with the utmost firmness the continued violations of international human rights law committed since the beginning of hostilities in Syria, despite the current presence on the ground of an advance team of UN observers. The Committee called for an immediate respect of the ceasefire which should have come into effect on 12 April. It expressed full support to the UN Supervision Mission in Syria and to its endeavours. It called upon all parties in Syria to cease immediately all forms of violence. The Committee of Ministers urged the Syrian Government to follow its commitment and to apply immediately, completely and unconditionally the six point plan devised by the Joint Special Envoy of the United Nations and the League of Arab States, Kofi Annan, and endorsed by UNSC Resolutions 2042 and 2043. The Committee of Ministers commended neighbouring countries namely Turkey, Jordan and Lebanon for the humanitarian assistance provided to Syrian refugees. A peaceful and democratic solution founded on full respect for human rights is the only way forward for Syria.

International Day Against Homophobia and Transphobia (17.05.2012)

In light of the UK Chairmanship's priority on combating discrimination against the lesbian, gay, bisexual and transgender persons, the Chairman of the Committee of Ministers wished to endorse the statement of his colleagues Jeremy Browne and Stephen O'Brien on the occasion of International Day against Homophobia and Transphobia ([Statement by Jeremy Browne and Stephen O'Brien](#)).

Part VI: The parliamentary work

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

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

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

PACE monitoring rapporteurs expressed concern at Moscow violence (07.05.2012)

The co-rapporteurs for the monitoring of Russia by PACE, Andreas Gross (Switzerland, SOC) and György Frunda (Romania, EPP/CD), have expressed their concern at the violence which followed the mass demonstration in Moscow on the eve of the presidential inauguration, and the detention of more than 250 participants. "Freedom of speech and assembly are essential preconditions for democracy. Preventing people from enjoying these rights when they want to demonstrate their dissatisfaction is unjustified," they said ([Read more](#)).

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 ([Read more](#)).

Armenian elections competitive and largely peaceful, but shortcomings undermined confidence in the process, observers said (7 May 2012)

Sunday's 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 ([Read more](#)).

Moldovan authorities urged to adopt a comprehensive law to combat discrimination, including on the ground of sexual orientation (16.05.2012)

On the eve of the International Day against Homophobia, Lise Christoffersen (Norway, SOC) and Piotr Wach (Poland, EPP/CD), PACE co-rapporteurs on the honouring of obligations and commitments by the Republic of Moldova, have expressed their concern at the latest developments in this country relating to the preparation of an Anti-Discrimination Law: "A draft Anti-Discrimination Law aimed at complying with international standards has been in preparation since 2008, though giving rise to heated debate and misunderstanding within Moldovan society. We are therefore concerned by the recent and unexpected decision of the Minister of Justice to table a compromise draft 'Law on equal opportunities' rather than a fully-fledged anti-discrimination law" ([Read more](#)).

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

Portugal: Austerity measures pose a serious threat to human rights (09.05.2012)

“Fiscal austerity measures implemented so far in Portugal have disproportionately affected the human rights of the most vulnerable social groups, especially children, the elderly and Roma. I welcome the government’s efforts at cushioning the impact of the financial crisis, notably through the ‘social emergency’ programme which started to be implemented late last year. Much more and systematic work though is necessary in order to fully protect and respect the social and economic right standards by which Portugal is bound”, said the Council of Europe Commissioner for Human Rights, Nils Muižnieks, upon conclusion of his three-day visit to Lisbon ([Read more](#)).