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

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## **Introduction**

This Issue is part of the "Regular Selective Information Flow" (RSIF). Its purpose is to keep the National Human Rights Structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the National Human Rights Structures Unit of the DG-Human Rights and Rule of Law (NHRs Unit) 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 NHRs Unit to the Contact Persons a fortnight after the end of each observation period. This means that all information contained in any given issue is between two and four weeks old.

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

The selection of the information included in the Issues is made by the NHRs Unit. It is based on what is deemed relevant to the work of the 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 NHR Unit, is based on the [press releases of the Registry of the Court](#).

Some judgments are only available in French.

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

#### **Note on the Importance Level:**

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

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

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

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

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

- **Right to life**

**Makharadze and Sikharulidze v. Georgia (no. 35254/07) (Importance 2) – 22 November 2011 – Violation of Article 2 (positive obligation) – Domestic authorities’ failure to protect the life of a prisoner suffering from tuberculosis – Violation of Article 34 – Domestic authorities’ inability to provide a prisoner suffering from multi-drug resistant tuberculosis with effective treatment**

Suffering from tuberculosis, the applicant was arrested on suspicion of possessing drugs. In July 2006, he was convicted and sentenced to seven years in prison. The applicant alleged that Georgia had failed to take all reasonable steps to protect his health and life. He further complained – and his wife maintained that complaint – that the Government had refused to transfer him to a specialised hospital.

#### Article 2

The Court observed the question was whether the treatment received had been adequate for the applicant’s condition. It noted in particular that **the domestic courts, in the proceedings concerning the suspension of his sentence, had turned a blind eye to the exceptional gravity of his condition** which, according to the qualified medical experts, was **deteriorating in prison conditions**, and to the consequent fact that the medical assistance he had been given in prison had apparently been incapable of fighting his tuberculosis. The Court was further concerned that **no adequate enquiry had been conducted into the cause of the applicant’s death**. The coexistence and cumulative effect of those factors were more than enough to conclude that the State had failed to protect the applicant’s health and life in prison, in violation of Article 2.

#### Article 34

Under Rule 39 of the Rules of Court, the Georgian Government had been asked to place the applicant in a specialised medical establishment capable of providing appropriate anti-tuberculosis treatment. At the time the interim measure was indicated, two civil hospitals in Georgia had had the required medical equipment and specially trained clinicians for the treatment of multidrug resistant tuberculosis. **It would thus have been possible to place the applicant in one of those hospitals.** There had accordingly been a violation of Article 34.

Article 41 (just satisfaction)

The Court held that Georgia was to pay the applicant's widow EUR 15,000 in respect of non-pecuniary damage.

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

**Izgi v. Turkey (no. 44861/04) (Importance 2) – 15 November 2011 – Violation of Article 3 (substantive) – Ill-treatment of a demonstrator by domestic authorities**

A member of the Adana branch of DEHAP (People's Democratic Party), the applicant complained that he had been ill-treated by the police when they had intervened to disperse DEHAP members taking part in the party's demonstration.

The Court observed that the applicant had sustained bruising, hyperemia, pains and nasal hypertrophy; that it was **not apparent from the facts that the applicant had acted aggressively** to the extent that the police had been obliged to use force in order to bring him under control. In this connection, even if the applicant's conduct had justified the use of force by the police in order to restore order, the Court took the view that **the seriousness of blows to the body, face or head of a participant in a gathering could not have been justified simply by the police's attempt to disperse the crowd.** Moreover, the Court noted that the request for authorization to bring criminal proceedings against the police officers had been addressed to the governor without taking into account the fact that, since January 2003, the decision to prosecute State agents for offences amounting to ill-treatment and excessive use of force was to be taken by the public prosecutor himself. Observing that the facts of the case had taken place in September 2003, when the new provision was already in force, the Court considered that in the present case **the public prosecutor alone had been competent to initiate criminal proceedings.** The Court thus held that there had been a violation of Article 3.

Article 41 (just satisfaction)

The Court held that Turkey was to pay the applicant EUR 9,000 in respect of non-pecuniary damage, and EUR 106 for costs and expenses.

**Al Hanchi v. Bosnia and Herzegovina (no. 48205/09) (Importance 2) – 15 November 2011 – No violation of Article 3 – No risk of being ill-treated if deported to Tunisia**

The applicant is a Tunisian national and is currently detained in Istocno Sarajevo Immigration Centre. He complained that his deportation would expose him to the risk of ill-treatment, as he had joined the foreign mujahedin in Bosnia and Herzegovina and would therefore be treated as a suspected terrorist in Tunisia.

The Court observed, as the Parliamentary Assembly of the Council of Europe and UN Special Rapporteurs had noted, that **steps were currently being taken in Tunisia to move towards a democratic system.** Those measures included **amnesty granted to all political prisoners, the dissolution of the State Security Service,** which was widely accused of human rights abuses during the former regime, and the dismissal or prosecution of some high-ranking officials for past abuse of human rights. While cases of ill-treatment in Tunisia were still reported, they were sporadic incidents and there was **no indication that Islamists were systematically targeted as a group after the change in regime.** Furthermore, Tunisia had acceded to the **Optional Protocol of the UN Convention against Torture;** it had also adopted the Optional Protocol to the **International Covenant on Civil and Political Rights.** Consequently, the Court concluded that there was no risk that, if deported to Tunisia, the applicant would be ill-treated. Therefore, there would not be a violation of Article 3.

**Ivanțoc and Others v. Moldova and Russia (no. 23687/05) (Importance 1) – 15 November 2011 - Violation of Article 3 (Russia) – (substantive) Inhuman and degrading conditions of detention – Violation of Article 5 (Russia) – Unlawful detention – Violation of Article 13 (Russia) – Lack of an effective remedy in respect of the applicant's detention – Violation of Article 8 (Russia) –**

## **Unjustified deprivation of the applicants' close relatives' right to visit them in prison – No violation of Articles 3, 5, 8 and 13 concerning Moldova.**

On December 1993, the applicants were tried and convicted by the “Supreme Court of the Moldavian Republic of Transdnistria” (“MRT”) for various crimes and offences. They were detained in solitary confinement, suffering from permanent lack of natural light, lack of appropriate and regular medical treatment, absence of any contact whatsoever with their lawyers, limited contact with their closest relatives without a clear legal basis, and censorship of their correspondence without any clear legal basis.

### Determination of jurisdiction

The Court found that, at least until the applicants' release in June 2007, Russia continued to enjoy a close relationship with the “MRT”, providing **political, financial and economic support** to the separatist regime. The Russian army was also, at the date of the applicants' release, still **stationed on Moldovan territory**, in breach of Russia's undertakings to withdraw completely and in breach of Moldovan legislation. The applicants therefore continued to be within the **“jurisdiction” of Russia**.

### Article 3

The Court referred in particular to the conclusions of the Committee for the Prevention of Torture (CPT) of the Council of Europe, which reported, following its visit to Transdnistria in 2000, that the prolonged solitary confinement of the two men was indefensible. That violation was **aggravated by the fact that their detention occurred after the Court's judgment of 8 July 2004 ordering Russia to release them**.

### Articles 5 and 13

The Court noted that the continued detention of the applicants was based on the same conviction and sentence of imprisonment of the “Supreme Court of the MRT”, which had already been found to be contrary to the Convention in *Ilaşcu and Others*. There was therefore a continuing violation of Article 5 § 1. **That violation was of a particularly serious nature due to the fact that the applicants continued to be detained despite the Court's judgment ordering Russia and Moldova to secure the two men's immediate release**. The Court found that the applicants did not have an effective remedy for their complaint concerning their unlawful detention, in violation of Article 13.

### Article 8

The Court considered that the conditions of detention of the applicants, concerning correspondence with and visits from their closest relatives interfered with the rights of the latest to respect for their private and family life. The Court was not informed of any legal basis for the interference with the applicants' rights. **The Court found that the absence of any justification was particularly serious when it concerned relations between detainees and their closest relatives for such a long period of time**. There had, therefore, been a violation of Article 8.

### Article 41 (just satisfaction)

The Court held that Russia was to pay the applicants, each, EUR 60,000 for pecuniary and non-pecuniary damage; their close relatives, each, EUR 20,000 for pecuniary and non-pecuniary damage; and, EUR 5,240.40 overall for costs and expenses.

Judge Kovler expressed a dissenting opinion.

- **Right to liberty and security**

### **O.H. v. Germany (no. 4646/08) (Importance 1) – 24 November 2011 – Violation of Article 5 § 1 – Unlawful preventive detention – Violation of Article 7 § 1 – Retroactive extension of the applicant's preventive detention**

The applicant was sentenced to nine years' imprisonment in April 1987; at the same time the court ordered his placement in preventive detention. While psychological and neurological experts consulted by the court found that he was suffering from a personality disorder, they held that it was not serious enough to be classified as pathological. The applicant complained of the retrospective extension of his preventive detention beyond the maximum period of ten years authorized under German law at the time of his offence.

### Article 5 § 1

The Court considered in particular that there had been no sufficient causal connection between the applicant's conviction by the sentencing court and his continued deprivation of liberty beyond the period of ten years in preventive detention to be covered by Article 5 § 1 (a) as being detention "after

conviction". The Court further found that the applicant's preventive detention was not justified under Article 5 § 1 (e) as detention of a person "of unsound mind". Under the Court's case-law, a person's detention as a mental health patient would only be lawful if effected in a hospital, clinic or other appropriate institution, which was not the case here. Having regard to the German Government's argument that the applicant's continued preventive detention had been ordered as there was still a risk that he might commit serious offences, the Court underlined that the Convention did not permit a State to protect potential victims from criminal acts of a person by measures which were itself in breach of that person's Convention rights. There had accordingly been a violation of Article 5 § 1.

#### Article 7 § 1

The Court saw no reason to depart from its finding in the case of *M. v. Germany* that preventive detention under the German Criminal Code, given that it was ordered by the criminal courts following a conviction for a criminal offence and that it entailed a deprivation of liberty, was to be qualified as a "penalty" for the purposes of Article 7 § 1. At the time of the applicant's conviction and his preventive detention order, such an order meant that he could be kept in preventive detention for a maximum of ten years. His preventive detention was subsequently extended with retrospective effect, on the basis of the Criminal Code as amended in 1998, hence under a law that was enacted after he had committed his offence. Referring in particular to a recent leading judgment of the German Federal Constitutional Court, the Court found that there had been a violation of Article 7 § 1.

#### Article 41 (just satisfaction)

The Court held that Germany was to pay the applicant EUR 20,000 in respect of non-pecuniary damage.

Judge Zupančič expressed a separate opinion.

### **Schönbrod v. Germany (no. 48038/06) (Importance 2) – 24 November 2011 – Violation of Article 5 § 1 – Unjustified preventive detention**

The applicant complained that his preventive detention had violated Article 5 § 1, among other things because, given his advanced age, he was no longer dangerous to the public.

The Court noted in particular that the applicant had been **detained for more than nine months after having fully served his prison sentence without a court order, because no decision had yet been taken as to whether his preventive detention was necessary.** The Court was prepared to accept that that situation had been in accordance with national law, having regard to the domestic courts' reasoning, according to which it had been sufficient that the court dealing with the execution of sentences had begun to examine that question. Nevertheless, the Court underlined that **under its case-law the speed with which the courts issued a new detention order after the expiry of a previous one was one of the relevant elements in assessing whether a person's detention, despite its compliance with domestic law, had to be considered arbitrary.** Nothing indicated the applicant had in any way contributed to the delays in the procedure, which led to him being detained without a court order for a considerable time. Those delays had rather been caused by the domestic court and prosecutor's office. In view of those considerations, the Court concluded that the applicant's detention between the end of his prison sentence in June 2005 and the preventive detention order of March 2006 had to be considered arbitrary, in violation of Article 5 § 1.

#### Article 41 (just satisfaction)

The Court held that Germany was to pay the applicant EUR 5,000 euros in respect of non-pecuniary damage and EUR 1,015.96 in respect of costs and expenses.

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

### **Zammit Maempel v. Malta (no. 24202/10) (Importance 2) – 22 November 2011 – No violation of Article 8 – Domestic authorities' decision to grant a permit to display firework at a short distance from the applicants' home does not breach their right to respect for private and family life**

Every year, to celebrate certain village festivals, fireworks are displayed in the fields, at a distance of 150 meters or more from the applicants' house. The applicants complained that the permits issued for fireworks had caused them suffering in breach of their Article 8 rights.

The Court accepted that firework displays were one of the highlights of a village feast which undeniably generated an amount of income and which, therefore, aided the general economy. Moreover, traditional village feasts could be considered as part of the Maltese cultural and religious



heritage. The Court then noted that the noise levels could have impaired the hearing of at least one of the applicants. At the same time, there had not been a real and immediate risk to the applicants' life or personal integrity. The letting off of fireworks had also damaged the applicants' property, although the damage had been minimal and reversible. In addition, the Government had been aware of the dangers of fireworks and had put in place a system whereby people and properties were protected to a certain degree. Thus, the issuing of permits for firework displays, as well as for transportation and uploading of fireworks, had been provided for in specific regulations. Finally, the Court noted in particular that the applicants had acquired the property while aware of the situation of which they were complaining. Consequently, there had been no violation of Article 8.

- **Right to freedom of thought, conscience and religion**

**Ercep v. Turkey (no. 43965/04) (Importance 2) – 22 November 2011 – Violation of Article 9 – Conviction of the applicant on account of his refusal, justified by religious beliefs, to perform his military service – Violation of Article 6 – Unfairness of proceedings (court exclusively composed of military)**

The applicant is a Jehovah's Witness who refused to perform his military service. He was sentenced to several terms of imprisonment for failing to report for duty following approximately 15 call-ups. The applicant complained that his successive convictions for refusing to serve in the armed forces amounted to a violation of Article 9. He complained of having been obliged, as a civilian, to appear before a court made up exclusively of military officers.

Article 9

The Court had recently reviewed its case-law concerning conscientious objectors, in its Grand Chamber judgment in *Bayatyan v. Armenia* (see [RSIF No. 68-69, p.7](#)). In this case the Court observed that the applicant was a member of the Jehovah's Witnesses, a religious group that had consistently opposed military service. There was **no reason to doubt that his objection was motivated by anything other than genuinely held religious beliefs**. The Court considered that that situation was not compatible with law enforcement in a democratic society. It took the view that the numerous convictions imposed on the applicant because of his beliefs, in a situation where no form of civilian service offering a fair alternative existed in Turkey, amounted to a violation of Article 9.

Article 6

The Court considered it understandable that the applicant, a civilian standing trial before a court composed exclusively of military officers, charged with offences relating to military service, should have been apprehensive about appearing before judges belonging to the army, which could be identified with a party to the proceedings. In such circumstances, **a civilian could legitimately fear that the military court might allow itself to be unduly influenced by partial considerations**. Accordingly, the Court held that there had been a violation of Article 6 § 1 in that regard.

Article 41 (just satisfaction)

The Court held that Turkey was to pay the applicant EUR 10,000 euros in respect of non-pecuniary damage and EUR 5,000 in respect of costs and expenses.

- **Freedom of expression**

**John Anthony Mizzi v. Malta (no. 17320/10) (Importance 2) – 22 November 2011 – Violation of Article 10 – Interference with the applicant's right to freedom of expression on account of his conviction for having defamed a former prime minister**

In February 1994, The Sunday Times of Malta published a letter from the applicant, into which he wrote that, after World War II and during the time when Sir Paul Boffa was a Prime Minister of Malta, permission was given to build on a local bay "because Dr Boffa wanted to build there". The applicant was condemned by domestic courts to pay EUR 700 in damages to Sir Boffa's son. The applicant complained that the Maltese courts' judgments, finding him guilty of defamation and ordering him to pay civil damages, breached his right to freedom of expression.

The Court found in particular that **the Maltese courts had presumed the malicious intent on the part of the applicant** and had not examined whether he had acted in good faith. In particular, his statement had to be considered in the light of the overall focus of his letter. The part about Sir Boffa had in fact been **a mere historic detail in an article, which had dealt with an entirely different subject**. Furthermore, the domestic courts had not given any weight to the fact that Sir Boffa had been a prime minister and, therefore, **a public figure that had to tolerate broader limits of acceptable criticism**. Neither had the courts considered that **the article was devoted to a subject of some**

**public interest.** The fact that the proceedings had been civil, as opposed to criminal, and that the applicant had been sentenced to pay a relatively small fine, had not affected the conclusion that the standards applied by the Maltese courts had not been compatible with those of Article 10. There had, therefore, been a violation of Article 10.

Article 41 (Just satisfaction)

The Court held that Malta was to pay the applicant EUR 700 in respect of pecuniary damage, EUR 4,000 in respect of non-pecuniary damage and EUR 5,300 for costs and expenses.

Judge Scicluna expressed a dissenting opinion.

**Koprivica v. Montenegro (no. 41158/09) (Importance 2) – 22 November 2011 – Violation of Article 10 – Disproportionate damages granted to a person allegedly defamed by a magazine**

The applicant was the editor-in-chief of an opposition Montenegrin weekly magazine called “Liberal”. On 24 September 1994, the “Liberal” published an article, which reported that many journalists were going to be tried for incitement to war by the International Criminal Tribunal for the former Yugoslavia (ICTY). A list of the 16 Montenegrin journalists allegedly concerned was enclosed. One of those 16 journalists, complained in court that the applicant’s article had damaged his reputation. He obtained compensation. The applicant complained that his right to freedom of expression had been breached as a result of ordering him to pay damages for publishing the 1994 article.

The Court noted that, **whatever the reality of the defamation, the damages the applicant had been ordered to pay had been excessive.** Their amount had been disproportionate in particular when compared to his pension. While the Montenegrin Government had argued that his pension had not been his only income, they had not submitted evidence to support their claim. In addition, even when compared to the highest incomes in Montenegro, the damages and costs, which the applicant had been obliged to pay, had still been excessive. Accordingly, there had been a violation of Article 10.

Article 41 (Just satisfaction)

The Court held that the question of the application of Article 41 of the Convention was not ready for decision and reserved the whole question accordingly.

- **Protection of property**

**Sivova and Koleva v. Bulgaria (no. 30383/03) (Importance 2) – 15 November 2011 – Violation of Article 1 of Protocol No. 1 – Domestic authorities’ failure to strike a fair balance between public interest and the applicants’ right to peaceful enjoyment of their possessions – No violation of Article 6 § 1 – Fairness of proceedings**

After the entry into force of a law on the ownership and use of farmland, providing for the return of certain properties that had been collectivized or nationalized during the communist era, the applicants filed a claim for recovery of possession. The local land commission acknowledged the applicants’ title but they failed to recover their land. The applicants complained that the judicial proceedings concerning their action for recovery had been unfair. They further argued that a judgment of the Supreme Court of Cassation had breached their right to the peaceful enjoyment of their possessions.

Article 6 § 1

The Court noted in particular that, in two final decisions of the Burgas District Court, the applicants’ claims for recovery of land had been upheld, but that in spite of those decisions the Supreme Court of Cassation had rejected their action for recovery of possession against the company Helio-Tour-S. The Court observed that **the applicant had been granted a right of recovery but the judgment had not stipulated whether that required the return of the land or payment of compensation.** The Court observed that the Supreme Court of Cassation had not called into question the right granted to the applicant, only the right to have the land returned within its former boundaries. Moreover, the **acknowledgment that the applicants were entitled to a particular form of recovery had been made without prejudice to the competing rights of third parties. The applicants had not in fact been unaware of the existence of the competing rights of Helio-Tour-S in respect of the land.** They could thus not legitimately have expected that the judgments would be effective not only between themselves and the State but also vis-à-vis any third parties or that it would protect them from any future dispute or claim in respect of the land in question. The Court accordingly held that there had been no breach of the principle of legal certainty and thus no violation of Article 6 § 1 concerning the fairness of the proceedings.

## Article 1 of Protocol No. 1

In particular, the Court reiterated that any interference by public authorities in the peaceful enjoyment of possessions had to be provided for by law. The Court noted that the interference with the applicant's right to property had a legal basis in domestic law. Referring back to the reasoning it had given in respect of Article 6, the Court observed that the limitation of the authority of a final judgment and the possibility for a third party not having participated therein (i.e. the company Helio-Tour-S) to assert its rights in subsequent proceedings, did not appear to render the interference unlawful. As regards the striking of a fair balance, the Court reiterated that States enjoyed a wide margin of appreciation in respect of the recovery of previously expropriated property. **But the Court found it excessive that 12 years after the decision of the land commission of 4 March 1999 and 11 years after the judgment of 19 January 2000 the applicants had still not obtained the final settlement of their claims.** In those circumstances the Court found that Bulgaria had not acted with the necessary diligence and had not struck a fair balance between the requirements of the general interest and the protection of the applicants' right to the peaceful enjoyment of their possessions, in violation of Article 1 of Protocol No. 1.

## Article 41 (Just satisfaction)

The Court held that Bulgaria was to pay each of the applicants EUR 295 euros in respect of pecuniary damage, EUR 4,000 in respect of non pecuniary damage, and EUR 3,153 for costs and expenses.

## **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 15 Nov. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 22 Nov. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 24 Nov. 2011: [here](#)

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

<u>State</u>	<u>Date</u>	<u>Case Title and Importance of the case</u>	<u>Conclusion</u>	<u>Key Words</u>	<u>Link to the case</u>
Armenia	15 Nov. 2011	Hovhannisyan and Shiroyan (no. 5065/06) Imp. 3	Just satisfaction	Just satisfaction in respect of the judgment delivered on 20 July 2010	<a href="#">Link</a>
Azerbaijan	22 Nov. 2011	Natig Mirzayev (no. 36122/06) Imp. 3	Violation of Art. 6 § 1	Unfairness of proceedings (hearings on the applicant's case had been held in his absence)	<a href="#">Link</a>
Bulgaria	15 Nov. 2011	M.P. and Others (no. 22457/08) Imp. 3	No violation of Art. 3 No violation of Art. 8	The applicant received sufficient information about his proceedings; No failure of domestic authorities to facilitate contact between the applicants	<a href="#">Link</a>
Estonia	22 Nov. 2011	Andreyev (no. 48132/07) Imp. 2	Violation of Art. 6 § 1	Legal aid lawyer's failure to lodge an appeal within the applicable time-limit	<a href="#">Link</a>
Latvia	15 Nov. 2011	Longa Yonkeu (no. 57229/09) Imp. 2	Violation of Art. 5 § 1 No violation of Art. 5 § 1	Unlawfulness and arbitrariness of the applicant's detention pending his deportation to Cameroon Justified detention of other periods of detention	<a href="#">Link</a>
Malta	22 Nov. 2011	Central Mediterranean Development Corporation Limited (no. 2) (no. 18544/08) Imp. 2	No violation of Art. 6 § 1	Impartiality of the judge	<a href="#">Link</a>
Malta	22	Curmi (no.	Violation of Art. 1 of	Land taken from the applicant	<a href="#">Link</a>

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

	Nov. 2011	2243/10) Imp. 2	Prot. 1 Violation of Art. 6 § 1	without any public interest; No compensation received more than 20 years after expropriation	
Malta	22 Nov. 2011	Frendo Randon and Others (no. 2226/10) Imp. 2	Violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1	Land taken from the applicant without any public interest; No compensation received more than 40 years after expropriation	<a href="#">Link</a>
Malta	22 Nov. 2011	Saliba and Others (no. 20287/10) Imp. 2	Violation of Art. 1 of Prot. 1 Violation of Art. 6 § 1	Unjustified demolition of the applicant's property; Insignificant compensation (calculated according to the property's rental value before the Second World War)	<a href="#">Link</a>
Poland	15 Nov. 2011	Semik-Orzech (no. 39900/06) Imp. 3	No violation of Art. 10	Domestic Court's decision to oblige a newspaper to publish an apology and rectification for having wrongfully doubted of a lawyer's professional skills does not violate to right to freedom of expression	<a href="#">Link</a>
Spain	22 Nov. 2011	Lacadena Calero (no. 23002/07) Imp. 3	Violation of Art. 6 § 1	Unfairness of proceedings (conviction by a Supreme Court without having been heard in person, when the first-instance court had acquitted the applicant following a public hearing)	<a href="#">Link</a>
Turkey	22 Nov. 2011	Recep Kurt (no. 23164/09) Imp. 2	Violation of Art. 2 (right to life) No violation of Art. 2 (investigation)	Domestic authorities' failure to protect the applicant's son's life; Effective investigation in that respect	<a href="#">Link</a>
Ukraine	24 Nov. 2011	Tsygoniy (no. 19213/04) Imp. 2	Violation of Art. 3 (substantive) Violation of Art. 5 § 1  Violation of Art. 5 § 3  Violation of Art. 5 § 4  Violation of Art. 13	Poor conditions of detention  Unlawfulness of the applicant's detention Excessive length of the applicant's pre-trial detention (1 year and 4 months) Lack of opportunity for the applicant to obtain meaningful review of the lawfulness of his detention Lack of an effective remedy in respect of the applicant's complaint about the conditions of his detention	<a href="#">Link</a>
the United Kingdom	22 Nov. 2011	Alder (no. 42078/02) Imp. 3	Struck out of the list	It is no longer justified to continue the examination of the case	<a href="#">Link</a>

### 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.

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key words</u>
Bosnia and Herzegovina	15 Nov. 2011	Runić and Others (nos. 28735/06, 44534/06 etc.) <a href="#">link</a>	Violation of Art. 6 and Art. 1 of Prot. 1	Domestic authorities' failure to enforce final judgments awarding the applicants compensation for war damage
Russia	22 Nov. 2011	Krasnov (no. 18892/04) <a href="#">link</a>	Violation of Art. 6 § 1 and Art. 1 of Prot. 1	Domestic authorities' failure to enforce a judgment granting the applicant's claim to recover unpaid military allowance
Turkey	22 Nov. 2011	Bayav (no. 45140/05) <a href="#">link</a>	Violation of Art. 6 § 1	Unfairness of proceedings (lack of an oral hearing)

#### 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 [Frydender v. France](#) [GC], no. 30979/96, § 43, ECHR 2000-VII).

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Link to the judgment</u>
Italy	15 Nov. 2011	Facchiano and Maio (no. 699/03)	<a href="#">Link</a>
Turkey	15 Nov. 2011	Afşar (no. 26998/04)	<a href="#">Link</a>
Turkey	22 Nov. 2011	Güldane Acar and Others (no 1395/03)	<a href="#">Link</a>
Turkey	22 Nov. 2011	Yumusak and Yildirim (no 15725/07)	<a href="#">Link</a>

#### 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 7 to 20 November 2011**.

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Azerbaijan	15 Nov. 2011	Zobkova (no 37509/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Struck out of the list (the applicant no longer wished to pursue her application)
Estonia	15 Nov. 2011	Kaasik (no 38686/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 and Art. 1 of Prot. 1	Idem.
Hungary	15 Nov. 2011	Vrancsik (no 16770/07) <a href="#">link</a>	Complaint about the conversion of the applicant's Austrian prison sentence into a Hungarian one	Struck out of the list (no relatives or heirs have approached the Court requesting the continuation of the application following the applicant's death)
Hungary	15 Nov. 2011	Jozsef Kovacs (no 50375/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Poland	08 Nov. 2011	PKS Tychy SP. Z O.O. (no 37574/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (unfairness of proceedings)	Struck out of the list (unilateral declaration of the Government)
Poland	08 Nov. 2011	Romer and Dmowska-Baculewska (no 72166/01) <a href="#">link</a>	Alleged violation of Art. 1 of Prot. 1 (infringement of the applicants' right to peaceful enjoyment of their possessions) and Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (the applicants no longer wished to pursue their application)
Poland	15 Nov. 2011	Szafраниak (no 29591/11) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Sztum Prison)	Struck out of the list (friendly settlement reached)
Poland	15 Nov. 2011	Stelmaszyk (no 3754/11) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Koronowo Prison)	Idem.
Poland	15 Nov. 2011	Sobczyk (no 72558/10) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Bydgoszcz Remand Centre)	Idem.
Poland	15 Nov. 2011	Januszewski (no 36347/10) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Wrocław no. 2 Prison and in Wołów Prison)	Idem.



Serbia	15 Nov. 2011	Milosevic (no 10234/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Art. 13 (lack of an effective remedy)	Idem.
Slovakia	08 Nov. 2011	Zakova Malinova (no 51493/07) <a href="#">link</a>	Alleged violation of Art. 3 (lack of an effective investigation in respect of an attack on the applicant) and Art. 13 (lack of an effective remedy)	Idem.
Slovakia	08 Nov. 2011	Trco (no 41734/07) <a href="#">link</a>	Alleged violation of Art. 5 §§ 3 ad 5 (dismissal of the applicant's application for release and duration of examination of that application)	Struck out of the list (the applicant no longer wished to pursue his application)
the Czech Republic	15 Nov. 2011	Simek and Simkova (no 28454/08) <a href="#">link</a>	Alleged violation of Art. 1 of Prot. 1 (expropriation of the applicants' house without adequate compensation)	Struck out of the list (friendly settlement reached)
the Czech Republic	15 Nov. 2011	E.H. (no 31251/07) <a href="#">link</a>	Alleged violation of Art. 5 § 1 (unlawful detention) and Art. 5 § 4 (lack of judicial review of the applicant's detention)	Idem.
"the Former Yugoslav Republic of Macedonia"	15 Nov. 2011	Joncevska (no 11086/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
"the Former Yugoslav Republic of Macedonia"	15 Nov. 2011	Zepceska (no 45999/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 13 and Art. 1 of Prot. 1	Idem.
Turkey	15 Nov. 2011	Karakus (no 9900/07) <a href="#">link</a>	Alleged violation of Art. 1 of Prot. 1 (non-execution of a domestic court judgment as well as lack of effective remedies in respect of the applicant's complaint concerning the non-payment of his money)	Struck out of the list (it is no longer justified to continue the examination of the application)
Turkey	15 Nov. 2011	Dogan (no 23284/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings) and Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
Turkey	15 Nov. 2011	Guzel (no 29692/06) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (deprivation of the applicant's property without compensation and unfair proceedings in that respect)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	15 Nov. 2011	Bozan Kaya (no 22521/06) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
Turkey	15 Nov. 2011	Gurel (no 1574/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (deprivation of the applicant's property without compensation and unfair proceedings in that respect)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	15 Nov. 2011	Mustafa Kaya (no 22501/06) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
Turkey	15 Nov. 2011	Atagun (no 15062/10) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (hindrance to the applicant's right to submit his arguments to domestic courts during proceedings related to a traffic fine)	Struck out of the list (the applicant no longer wished to pursue his application)
Ukraine	15 Nov. 2011	Sulyma (no 32356/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Articles 3, 8 and 13 and Art. 1 of Prot. 1	Struck out of the list (friendly settlement reached)
Ukraine	15 Nov. 2011	Tayfur (no 36171/04) <a href="#">link</a>	Alleged violation of Articles 3 and 9 (ill-treatment and poor conditions of detention)	Struck out of the list (the applicant no longer wished to pursue his application)
Ukraine	15 Nov. 2011	Bilska (no 11595/08) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Struck out of the list (it is no longer justified to continue the examination of the application)
Ukraine	15 Nov.	Stolyaruk (no 42854/09)	Alleged violation of Articles 6 § 1 and 13 and Art. 1 of Prot. 1 (non-	Idem.

	2011	<a href="#">link</a>	enforcement of a judgment in the applicant's favour)
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### 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 21 November 2011: [link](#)
- on 28 November 2011: [link](#)

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

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

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

#### Communicated cases published on 21 November 2011 on the Court's Website and selected by the NHRS Unit

*The batch of 21 November 2011 concerns the following States (some cases are however not selected in the table below): Estonia, France, Georgia, Greece, Hungary, Italy, Romania, Russia, Sweden, the United Kingdom and Turkey.*

<b>State</b>	<b>Date of Decision to Communicate</b>	<b>Case Title</b>	<b>Key Words of questions submitted to the parties</b>
France	01 Nov. 2011	A.A. no 18039/11 and 8 other applications	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Sudan
Sweden	01 Nov. 2011	Centrum För Rättvisa no 35252/08	Alleged violation of Art. 8 – Inconsistency of Swedish law on secret surveillance measures with the Convention
the United Kingdom	02 Nov. 2011	Asuquo no 61206/11	Alleged violation of Art. 4 – Forced labor
Turkey	03 Nov. 2011	ŞIK no 53413/11	Alleged violation of Art. 5 §§ 1, 2, 3 and 4 – Unlawful detention – Excessive length of detention – Inability of the applicant to challenge the lawfulness of his detention – Alleged violation of Art. 10 – Book written by the applicant considered as evidence of terrorist activities
Turkey	02 Nov. 2011	Zongür and Topçuoğlu no 17909/09	Alleged violation of Art. 3 – Ill-treatment during arrest and lack of an effective investigation – Alleged violation of Art. 11 – Applicant arrested on account of his placards during the Newruz Holyday
<b><u>Disappearance cases in Chechnya</u></b>			
Russia	03 Nov. 2011	Mikiyeva and	Alleged violations of Art. 2 (substantive and procedural) – (i) Disappearance of the applicants' close relative – (ii) Lack of an effective investigation in that

Menchayeva and 11 applications 61536/08	other no	respect – Alleged violation of Art. 3 (substantive) – Mental suffering of the applicants due to the bombing – Alleged violation of Art. 13 – Lack of an effective remedy
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**Communicated cases published on 28 November 2011 on the Court’s Website and selected by the NHRS Unit**

*The batch of 28 November 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, Croatia, Estonia, Finland, France, Ireland, Latvia, Poland, Russia, Spain, Sweden, Turkey and Ukraine.*

<b>State</b>	<b>Date of Decision to Communicate</b>	<b>Case Title</b>	<b>Key Words of questions submitted to the parties</b>
Finland	10 Nov. 2011	E.J. no 68050/11	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Iran
Poland	08 Nov. 2011	Przemyk no 22426/11	Alleged violation of Art. 2 – Lack of an effective investigation into the applicant’s son’s murder
Spain	09 Nov. 2011	A.C. no 6528/11 and 12 other applications	Alleged violation of Art. 3 – Risk of being subjected to ill-treatment if expelled to Morocco
Turkey	07 Nov. 2011	Çoraman no 16585/08	Alleged violation of Art. 3 (substantive and procedural) – (i) Ill-treatment by police officers and (ii) lack of an effective investigation in that respect

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

**Elections at the Court (16.11.2010)**

The Court has elected Françoise Tulkens (Belgian) as Vice-President. It has also re-elected Josep Casadevall (Andorran) as a Section President and has elected Nina Vajić (Croatian) and Dean Spielmann (Luxemburger) as Section Presidents. [Press Release](#)



## Part II: The execution of the judgments of the Court

### A. General overview of the twin-track supervision system for the execution of the judgments of the Court

Reflections have started since the adoption of Protocol No. 14 to the European Convention of Human Rights (ECHR), which was introduced to enable the Court to alleviate its workload that had become difficult to manage due to a large number of repetitive cases and some structural reasons that needed to be addressed. The 2010 Interlaken Declaration and its Action Plan were the culminating points in the reflection of how to address this problem. The message therein was clear: the European Court of Human Rights' (ECtHR) efforts should focus on the most efficient way to deal with the "priority cases" (in particular pilot judgments, cases revealing major structural/systemic shortcomings or requiring urgent individual measures). The need for prioritization concerned both the ECtHR and the Committee of Ministers in view of implementing judgments at national level in order to prevent new violations:

#### *"B. Implementation of the Convention at the national level"*

4. The Conference recalls that it is first and foremost the responsibility of the States Parties to guarantee the application and implementation of the Convention and consequently calls upon the States Parties to commit themselves to:

a) continuing to increase, where appropriate in co-operation with national human rights institutions or other relevant bodies, the awareness of national authorities of the Convention standards and to ensure their application;

[...]

#### **F. Supervision of execution of judgments**

11. The Conference stresses the urgent need for the Committee of Ministers to:

a) *develop the means which will render its supervision of the execution of the Court's judgments more effective and transparent. In this regard, it invites the Committee of Ministers to strengthen this supervision by giving increased priority and visibility not only to cases requiring urgent individual measures, but also to cases disclosing major structural problems, attaching particular importance to the need to establish effective domestic remedies;*

b) *review its working methods and its rules to ensure that they are better adapted to present-day realities and more effective for dealing with the variety of questions that arise."*

The Committee of Ministers contributed to this collective goal by the adoption in December 2010 of its new working methods on supervision of execution of judgments (entered in force on 1/1/2011). Based on the principles of continuous supervision (detached from the schedule of "Human Rights" meetings) and prioritization of cases, the new working methods should help the Committee of Ministers master the significant case load related to the supervision of execution and in particular contribute to finding a more efficient solution to the persisting problem of the so-called "clone" and "repetitive cases".

As it was highlighted on several occasions, including – expressly - in the abovementioned Interlaken Action Plan, National Human Rights Structures (NHRSSs), as independent state authorities, have a key role to play in order to identify possibilities for improvements in the respect for human rights at national level and encourage those to be made. They can in fact bridge the international and the national level, making it easier for national authorities to understand the human rights issues at stake.

New working methods were presented at the Madrid Roundtable held on 21-22 September 2011, during which good practices have been discussed. The conclusions of those discussions will be published in the RSIF as soon as available.

For more information on the Working methods, the relevant reference documents can be consulted:

<sup>\*</sup> See in this respect, "The Court's priority policy", [http://www.echr.coe.int/NR/ronlyres/AA56DA0F-DEE5-4FB6-BDD3-A5B34123FFAE/0/2010\\_Priority\\_policy\\_Public\\_communication.pdf](http://www.echr.coe.int/NR/ronlyres/AA56DA0F-DEE5-4FB6-BDD3-A5B34123FFAE/0/2010_Priority_policy_Public_communication.pdf)

<sup>†</sup> Extracts of the Action plan of the Interlaken Declaration 19 February 2010, High Level Conference on the Future of the European Court of Human Rights - : [http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/europa/euroc.Par.0133.File.tmp/final\\_en.pdf](http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/europa/euroc.Par.0133.File.tmp/final_en.pdf)

- Measures to improve the execution of the judgments of the European Court of Human Rights - Proposals for the implementation of the Interlaken Declaration and Action Plan  
**Extract of decisions taken during 1100th CMDH meeting - Item e:**

[http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/Interlaken/Item\\_e1100th\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/Interlaken/Item_e1100th_EN.pdf)

- **Information document CM/Inf/DH(2010)37** Supervision of the execution of judgments and decisions of the European Court of Human Rights: implementation of the Interlaken Action Plan – Modalities for a twin-track supervision system:

<https://wcd.coe.int/wcd/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1694239&SecMode=1&DocId=1616248&Usage=2>

- **Information document CM/Inf/DH(2010)45 final** Supervision of the execution of the judgments and decisions of the European Court of Human Rights: implementation of the Interlaken Action Plan – Outstanding issues concerning the practical modalities of implementation of the new twin track supervision system:

[https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Inf/DH\(2010\)45&Language=lanEnglish&Ver=final&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/Inf/DH(2010)45&Language=lanEnglish&Ver=final&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

- **Procedures outlines**

Under the twin-track system, all cases will be examined under the “standard procedure” (1) unless, because of its specific nature, a case warrants consideration under the “enhanced procedure” (2). The overall procedure is based upon the principle of subsidiarity and good practices of the NHRS are then encouraged (3).

1. Standard procedure

After a judgment becomes final, the concerned member State is expected to present as soon as possible and in any event in a maximum of six months either an action plan or an action report :

- if the state concerned considers that it has already taken all the necessary measures to implement a judgment, it present an action report. When there is agreement between the member state and the Secretariat on the content of the report, the case will be presented to the Committee of Ministers with a proposal for closure at the first upcoming “Human Rights” meeting, or in any event not later than six months after the presentation of the report.

- if the state concerned is in the process of identifying/adopting the measures that are necessary to be taken to implement a judgment, it presents an action plan. The Secretariat will make a preliminary assessment on the measures envisaged and the timetable proposed in the action plan and will contact the national authorities if further information and clarifications are necessary. The Committee will be invited to adopt a decision at its first upcoming “Human Rights” meetings or in any case not later than six months after the presentation of the action plan taking into account the presentation of the plan and inviting the authorities of the member State concerned to keep the Committee regularly informed of the progress made in the implementation of these action plans. When the member State informs the Secretariat that it considers that all measures have been taken and that it has complied with its obligation under Article 46 f the Convention, the action plan is turned into an action report.

If the State does not submit an action report or an action plan in a maximum of six months, a reminder will be sent to the State. In case of persistent failure from the authorities to submit an action plan or an action report, the case will be proposed for an enhanced supervision.

*More information :*

Action plans and/or reports are published here :

[http://www.coe.int/t/dghl/monitoring/execution/Themes/Add\\_info/Info\\_cases\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Themes/Add_info/Info_cases_en.asp)

2. Enhanced procedure

- a. *Indicators*

The indicators are: - judgments requiring urgent individual measures ; - pilot judgments ; - judgments disclosing major structural and/or complex problems as identified by the Court and/or by the Committee of Ministers ; - interstate cases.

## *b. Procedure*

Supervision under this procedure does not mean that each and every case should be systematically debated. It means a closer supervision by the Committee of Ministers, which entrusts the Secretariat with more intensive and pro-active cooperation with the States concerned by means of assistance in the preparation and/or implementation of action plans, expertise assistance as regards the type of measures envisaged, bilateral/multilateral cooperation programs in case of complete and substantive issues.

Under the enhanced procedure without debate, the Committee of Ministers exercises its supervision through decisions adopted at the "Human Rights" meetings. These decisions aim at demonstrating, whenever necessary, the developments in the execution process (for example, stocktaking of the measures already adopted and identification of the outstanding issues).

A request for debate can be made by any member State and/or the Secretariat. It emerges from the spirit of the new twin-track system that the issues to be proposed for debate are closely linked to the progress in the execution process and to the need to seek the guidance and/or support of the Committee of Ministers. When a case is proposed with debate to the Committee of Ministers, the Secretariat will ensure that clear and concrete reasons are given. Delegations will receive the relevant information on the cases proposed with debate one month before each "Human Rights" meeting.

A case may be transferred from one procedure to the other by a duly reasoned decision of the Committee of Ministers (for e.g. from enhanced to standard procedure when the Committee of Ministers is satisfied with the action plan presented and/or its implementation, or, from standard to enhanced procedure in case of failure to present action plan or action reports).

### 3. Cases currently pending before the Committee of Ministers

The entry into force of the new supervision system means that all new cases that will become final after 1 January 2011 will be subject to examination under the new working methods. Regarding the cases that were pending before the Committee of Ministers until 31 December 2010 (approximately 9000 active cases), transitional arrangements have been set up in order to allow their easy absorption into the new system. The Committee of Ministers instructed the Execution Department to provide, to the extent possible in time for their DH meeting in March 2011 and in any event, at the latest for their DH meeting of September 2011, proposals for their classification following bilateral consultations with the states concerned. The whole process has been brought to an end at the September 2011 Human Rights meeting.

*More information :*

Last decision of the Committee of Ministers classifying cases pending before the entry into force of the new working methods :

[CM/Del/Dec\(2011\)1120/item1bis / 12 September 2011](http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp)

### 4. Just satisfaction

Operating principles regarding just satisfaction are the following: registration by the Execution of Judgments Department of payments by States of sums awarded by the Court for just satisfaction; supervision if the applicant contests the payment or the amount of the sums paid. Registration is therefore the standard procedure and supervision the exception. On this basis, if an applicant has not made any complaint within two months of the date when the payment was registered by the department, he or she will be considered to have accepted the payment by the State concerned. If the payment is contested, States will agree to provide the necessary information for the Committee of Ministers to exercise its supervision;

*More information :* See the [page dedicated to Just Satisfaction](#) on the Execution of Judgments' website

#### **• Useful documents and websites on new working methods**

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

[http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp)

For more information on the specific question of the execution of judgments including the Committee of Ministers' annual report for 2010 on its supervision of judgments, please refer to the Council of

Europe's web site dedicated to the execution of judgments of the European Court of Human Rights:  
[http://www.coe.int/t/dghl/monitoring/execution/Default\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Default_en.asp)

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

[http://www.coe.int/t/dghl/monitoring/execution/Documents/Doc\\_ref\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Documents/Doc_ref_en.asp)

## **B. Relevant decisions adopted by the Committee of Ministers at its last “Human Rights” meeting held on 13-14 September 2011**

- **Classification of new judgments**

**Classification of new judgments which became final before 10 June 2011 (1120 DH meeting, 13-14 September 2011)**

See the decision: [CM/Del/Dec\(2011\)1120/item1 / 12 September 2011](#)

- **Action plans received for the new cases**

**List of cases which became final after the entry into force of the new working method and for which an action plan has been received since the last meeting 1120 DH meeting, 13-14 September 2011)**

See the decision: [CM/Del/Dec\(2011\)1120/iteme / 12 September 2011](#)

- **Other decisions and interim resolutions adopted by the Committee of Ministers**

The documents adopted during the meeting are the following:

- [CM/Del/Dec\(2011\)1120E / 16 September 2011](#)  
1120th (DH) meeting, 13-14 September 2011 - Decisions adopted at the meeting
- [CM/Del/Dec\(2011\)1120/1 / 12 September 2011](#)  
1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 1 - Cases against Albania
- [CM/Del/Dec\(2011\)1120/2 / 12 September 2011](#)  
1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 2 - M.S.S against Belgium and Greece
- [CM/Del/Dec\(2011\)1120/3 / 12 September 2011](#)  
1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 3 - Athanasiou and others and Manios group against Greece
- [CM/Del/Dec\(2011\)1120/4 / 12 September 2011](#)  
1120 (DH) meeting/réunion, 13-14 September - Decision cases No. 4 - A. B. and C. against Ireland
- [CM/Del/Dec\(2011\)1120/5 / 12 September 2011](#)  
1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 5 - Olaru and others against Moldova
- [CM/Del/Dec\(2011\)1120/6 / 12 September 2011](#)  
1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 6 - Kaprykowski group against Poland
- [CM/Del/Dec\(2011\)1120/7 / 12 September 2011](#)  
1120 (DH) meeting 13-14 September 2011 - Decision cases No. 7 - Orchowski and Sikorski against Poland
- [CM/Del/Dec\(2011\)1120/8 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 8 - Moldovan and others group against Romania

- [CM/Del/Dec\(2011\)1120/9 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 9 - Khashiyev and Akayeva group against Russian Federation

- [CM/Del/Dec\(2011\)1120/10 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September - Decision cases No. 10 - Burdov No. 2 against Russian Federation

- [CM/Del/Dec\(2011\)1120/11 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 11 - EVT group against Serbia

- [CM/Del/Dec\(2011\)1120/11.1E / 12 September 2011](#)

Budget Committee – Replacement of a member in respect of the Russian Federation

- [CM/Del/Dec\(2011\)1120/12 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 12 - Hulki Güneş and others against Turkey

- [CM/Del/Dec\(2011\)1120/13 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September - Decision cases No. 13 - Ülke against Turkey

- [CM/Del/Dec\(2011\)1120/14 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September - Decision cases No. 14 - Yuriy Nikolayevich Ivanov and Zhovner group against Ukraine

- [CM/Del/Dec\(2011\)1120/15 / 12 September 2011](#)

1120 (DH) meeting/réunion, 13-14 September/septembre 2011 - Decision cases No. 15 / Décision affaires n°15 - Kharchenko against Ukraine / Kharchenko contre Ukraine

- [CM/Del/Dec\(2011\)1120/16 / 12 September 2011](#)

1120 (DH) meeting, 13-14 September 2011 - Decision cases No. 16 - Hirst No. 2; Greens and M.T against the United Kingdom

- [CM/ResDH\(2011\)184E / 16 September 2011](#)

Interim Resolution CM/ResDH(2011)184 in Yuriy Nikolayevich Ivanov against Ukraine and of 386 cases against Ukraine concerning the failure or serious delay in abiding by final domestic courts' decisions delivered against the state and its entities as well as the absence of an effective remedy - adopted by the Committee of Ministers on 14 September 2011 at the 1120th meeting of the Ministers' Deputies

## Part III: General Agenda

The “General Agenda” presents events that either took place or were announced\* during the period under observation (31.10 – 13.11.2011) for this RSIF.

### November 2011

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- 16 November:

- > Round table organized by ECRI to discuss the follow-up given to the recommendations contained in ECRI's 2011 report on Serbia ([Read more](#))

- 17 November:

- > Final Meeting within the Russian PMC Project ([Read more](#))

- 20-21 November:

- > "Building a child-friendly Europe: Turning a vision into reality": Conference (Monaco) in the framework of the Council of Europe's Strategy for the Rights of the Child 2012-2015 ([Read more](#))

- > Fundamental Rights Conference in Warsaw on migrants' rights: The European Union Agency for Fundamental Rights is holding a conference in Warsaw (Poland) to address the issue of access to fundamental rights for migrants with an irregular migration status who are living in the European Union ([Read more](#))

- 21-24 November:

- > CPT ad-hoc visit to “the former Yugoslav Republic of Macedonia”, to examine the current treatment and conditions of detention of persons held in Idrizovo Prison.

- 22-23 November:

- > Annual Round Table of Russian Regional Ombudsmen ([Read more in Russian](#))

### December 2011

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- 5-9 December:

- > European Committee of Social Rights 254<sup>th</sup> Session

- 6-8 December:

- > Annual stock-taking and planning meetings NPMs and NHRs (Peer-to-Peer II Joint Project)

- 6-9 December:

- > GRETA 12th Meeting

### January 2012

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- 23-25 January:

- > 255<sup>th</sup> session of the European Committee of Social Rights

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\* These are subsequently due to take place.

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

### A. European Social Charter (ESC)

#### Fellesforbunder for Sjøfolk has lodged a complaint against Norway (16.11.2011)

The complaint, registered under the reference 74/2011, concerns the compulsory retirement of seamen (Complaint no 74/2011: [English](#) - [Norwegian](#))

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

#### Report on Ukraine (23.11.2011)

The CPT has published on 23 November 2011 the report on its periodic visit to Ukraine in September 2009, together with the response of the Ukrainian Government. Both documents have been made public with the agreement of the Ukrainian authorities. In this report, the CPT notes an improvement of material conditions of detention in law enforcement establishments and of the conditions in which immigration detainees are held, as well as the stepping up of efforts aimed at the social rehabilitation of prisoners and their preparation for release. However, the Committee expresses concern that little progress has been made in many other areas ([Read more](#); [Read the report](#))

#### Report on Romania (25.11.2011)

The CPT has published on 25 November 2011 the report on its most recent visit to Romania (5 to 16 September 2010), together with the response of the Romanian Government. Both documents have been made public at the request of the Romanian authorities ([Read more](#); [Read the report](#))

### C. European Committee against Racism and Intolerance (ECRI)

#### ECRI to prepare report on Croatia (16.11.2011)

An ECRI delegation visited Denmark from 7 to 10 November 2011. During this visit, ECRI's delegation gathered information on the implementation of the recommendations it made to the authorities in its previous report of 2005 and discussed new issues that had emerged since ([more information](#))

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

#### Azerbaijan: receipt of the 3<sup>rd</sup> cycle State Report (22.11.2011)

Azerbaijan submitted on 21 November 2011 its third State Report. It is now up to the Advisory Committee to consider it and adopt an opinion intended for the Committee of Ministers ([Read the State Report](#))

### E. Group of States against Corruption (GRECO)

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

#### Reports on the 4<sup>th</sup> assessment visit to the Slovak Republic and San Marino (23 & 24.11.2011)

The reports were adopted at MONEYVAL's 36th Plenary meeting (Strasbourg, 26-30 September 2011). 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

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\* No work deemed relevant for the NHRs for the period under observation. Event announcements are reported in the General Agenda (Part III)

received NC or PC ratings in its 3rd round report. (Read the [Report on Slovak Republic](#) – Read the [Report on San Marino](#))

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

### **1st evaluation round: GRETA visited Montenegro (21.11.2011)**

A GRETA Delegation carried out a country visit to Montenegro from 14 to 18 November 2011. 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 (2010-2012) - ([Read more](#)).



## Part V: The inter-governmental work

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

22 November 2011

**Poland ratified:** the Convention for the Protection of the Architectural Heritage of Europe ([ETS No. 121](#))

24 November 2011

**Moldova ratified:** the Convention on Mutual Administrative Assistance in Tax Matters ([Ets No. 127](#)); and the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters ([CETS No. 208](#))

### B. Recommendations and Resolutions adopted by the Committee of Ministers

#### Recommendations

[CM/Res\(2011\)12E / 16 November 2011](#): Recommendation on children's rights and social services friendly to children and families.

[CM/Res\(2011\)13E / 16 November 2011](#): Recommendation on mobility, migration and access to health care.

[CM/Res\(2011\)14E / 16 November 2011](#): Recommendation on the participation of persons with disabilities in political and public life.

#### Resolutions

At its 1127<sup>th</sup> Meeting, held on 23 November 2011, the Committee of Ministers adopted 26 resolutions on the Budget of the Council of Europe: see the [list of resolutions adopted](#).

### C. Other news of the Committee of Ministers

#### **The Council of Europe takes action with regard to persons with disabilities in Europe (17.11.2011)**

The Committee of Ministers has adopted a Recommendation (see above) whose objective is to propose to member States principles and measures to increase the participation of persons with disabilities in political and public life at all levels – local, regional, national and international. The 47 member States of the Council of Europe account for 80 to 100 million people with disabilities. Often they do not take part in the decision-making process, faced with barriers of a legal, physical, and societal nature. The Committee of Ministers wishes to change this situation. The Recommendation aims to remove barriers and create conditions for active citizenship, without discrimination, for all and in all life settings. The Recommendation stresses that all persons with disabilities should be able to express their views. No person should be deprived of the right to vote or stand for election on the grounds of disability.

#### **Human Rights Commissioner: shortlist announced (24.11.2011)**

The Committee of Ministers has submitted a shortlist of three candidates for the post of Council of Europe Human Rights Commissioner to the Organisation's Parliamentary Assembly. He will take over from present Commissioner Thomas Hammarberg at the end of his mandate (31 March 2012). The candidates are Pierre-Yves Monette (Belgium), Nils Muiznieks (Latvia) and Frans Timmermans (Netherlands)

## Part VI: The parliamentary work

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

Resolutions adopted on 25 November 2011

Resolution number	Title
<a href="#">1844</a>	The Declaration of Principles on Equality and activities of the Council of Europe
<a href="#">1845</a>	Fundamental rights and responsibilities
<a href="#">1846</a>	Combating all forms of discrimination based on religion
<a href="#">1847</a>	The underground economy: a threat to democracy, development and the rule of law
<a href="#">1848</a>	The challenges faced by small national economies
<a href="#">1849</a>	Input for local development: an innovative approach for crisis-stricken
<a href="#">1850</a>	What Europe can do for children in the aftermath of natural disasters and crises situations: the examples of Haiti and Afghanistan
<a href="#">1851</a>	Armed conflicts and the environment
<a href="#">1852</a>	Psychological violence
<a href="#">1853</a>	Protection orders for victims of domestic violence
<a href="#">1854</a>	Ensuring protection against attacks on a person's honor and reputation

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

#### **PACE Committee call for a European Convention for the Protection of all Persons from Enforced Disappearances (17.11.2011)**

"The continuing suffering of relatives and friends of no less than 14,000 missing persons in the Western Balkans, 2,300 in the North Caucasus region of the Russian Federation and close to 2,000 in Cyprus as well as countless missing persons left behind by the conflicts in the South Caucasus region remain a major obstacle to lasting peace and reconciliation", Christos Pourgourides (Cyprus, EPP/CD) stressed at a meeting of the Committee on Legal Affairs and Human Rights in Paris on 16 November 2011. ([Read more](#))

#### **PACE Committee calls for additional protocol to the European Convention on Human Rights on national minorities (17.11.2011)**

In a report on "an additional protocol to the European Convention on Human Rights on national minorities", presented to the Committee on Legal Affairs and Human Rights in Paris on 17 November 2011, rapporteur György Frunda (Romania, EPP/CF) regretted that the main Council of Europe Instruments for the protection of the rights of national minorities have not been ratified by all member

States and underlines the numerous shortcomings in their implementation, already referred to in previous PACE Resolutions ([Read more](#))

### **PACE President calls on governments to take into account the intercultural dimension in legislation (18.11.2011)**

“We should use fully our democratic oversight powers in order to ensure that Governments take into account the inter-cultural dimension in the design of their policies and legislation”, PACE President said in Istanbul on 18 November 2011 ([Read more](#)).

### **PACE President welcomes priorities of UK presidency (23.11.2011)**

During his two-day working visit to the United Kingdom ending on 23 November 2011, PACE President Mevlüt Cavusoglu welcomed the priorities of the UK presidency which hand in hand coincide with the priorities of the Assembly, in particular the emphasis put on the Reform of the Court ([Read more](#)).

### **Lives lost in the Mediterranean: PACE hearing to examine Europe’s responsibility (24.11.2011)**

It is estimated that over a thousand boat people have perished in the Mediterranean Sea since January 2011 while attempting to reach Europe. Who may be responsible? What could have been done to avoid these tragedies? What lessons can be learned from these events? These questions were central to a hearing organised on Tuesday 29 November in Paris by the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe (PACE) in connection with the preparation of a report on the subject by Tineke Strik (Netherlands, SOC). – ([Read more](#))

### **A legal status for all religious communities (25.11.2011)**

While promoting a culture of "living together" based on religious pluralism, the PACE Standing Committee, meeting in Edinburgh on 25 November 2011, called on European governments “to grant all religious communities the possibility to obtain a legal status” and to abolish out-dated legislation and administrative practices causing discrimination against certain religious groups. ([Read the report](#))

### **PACE President welcomes “new ideas” to deal with European Court backlog (25.11.2011)**

PACE President Mevlüt Çavusoglu has welcomed 'new ideas' to deal with the backlog of thousands of cases clogging up the European Court of Human Rights. Addressing the Assembly's Standing Committee in Edinburgh, the President said that reform of the Court, and strengthening of the European Convention on Human Rights – which are priorities of the British chairmanship – were of the 'utmost importance'. He also pointed to the need to strengthen implementation of the Convention rights at national level, improve domestic remedies, and rapidly and fully execute judgments of the Court, all long-standing demands of the Assembly. ([Read more](#))

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

### **A. Country work**

#### **Ukraine: the independence and efficiency of the judiciary must be protected as a matter of priority (25.11.2011)**

“The protection of the right to a fair trial should be central to judicial reform efforts” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, at the end of a week-long visit to Ukraine. “In order to guarantee this fundamental human right to everyone, courts must be independent, impartial, and efficient.” A large proportion of the judgments against Ukraine delivered by the European Court of Human Rights have concerned violations of the right to a fair trial. The judgments point to certain systemic problems, which include excessive delays in court proceedings as well as non-enforcement of domestic judicial rulings ([Read more](#))

### **B. Thematic work**

#### **The right to leave one’s country should be applied without discrimination (22.11.2011)**

Strong measures have been taken by the Macedonian authorities to prevent citizens from travelling to EU countries - and seeking asylum there. The numbers doing so have gone up considerably since the EU agreed that people in Balkan countries would no longer require visas to enter EU territory. Governments within the EU have reacted and warned that the entire process of visa liberalisation might now be in jeopardy, says Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in a Human Rights Comment published on 22 November 2011 ([Read more](#))

**Part VIII: Activities and news of the Peer-to-Peer Network  
(under the auspices of the NHRS Unit of the Directorate General of  
Human Rights and Rule of Law)**

**Annual Round Table of Russian Regional Ombudsmen (22-23.11.2011)**

The Annual Roundtable of Russian Regional Ombudsmen took place in Samara, in the Russian Federation, from 22 to 23 November 2011, hosted by the Ombudsman of the Samara Region. This workshop was organised in the framework of the Joint European Union – Council of Europe Programme "Promoting independent national non-judicial mechanisms for the protection of human rights, especially for the prevention of torture" (The Peer-to-Peer II Project). The main theme of this year's Roundtable was the correlation of judicial and non-judicial bodies in the protection of human rights.

**The review of individual applications by the Constitutional Court of Turkey (23-25.11.2011)**

In the framework of the EU/CoE Joint Programme on "Enhancing the role of the Supreme Judicial Authorities in respect of European standards", a component has been included to support the Constitutional Court of Turkey in introducing the review of individual applications, which is foreseen to start in September 2012. This initiative was taken upon the request of the President of the Constitutional Court following the reform of the Constitutional Court. Several round tables will be organised at the Constitutional Court in view of exchanging with international experts on best practices in reviewing individual applications. As of today, the last round table on structural aspects related to the filtering system and the role of the research unit within the Constitutional Court took place in Ankara on 23-25 November 2011.