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*The **selection** of the information contained in this Issue and deemed relevant to NHRSS
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

We invite you to read the [INFORMATION NOTE No. 148](#) (provisional version) on the Court's case-law. This information note, compiled by the Registry's Case-Law Information and Publications Division, contains summaries of cases which the Jurisconsult, the Section Registrars and the Head of the aforementioned Division examined in January 2012 and sorted out as being of particular interest

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.

- **Grand chamber judgment**

[Stanev v. Bulgaria](#) (link to the judgment in French) (no. 36760/06) (Importance 1) – 17 January 2012 – Violation of Article 5 § 1 – Unlawful and arbitrary detention in a psychiatric institution – Violation of Article 5 § 4 – Lack of an effective remedy to challenge the lawfulness of that detention – Violation of Article 5 § 5 – Lack of an effective remedy to obtain compensation in case of unlawful detention – Violation of Article 3 – Degrading conditions of detention in a psychiatric institution for seven years – Violation of Article 13 – Lack of an effective remedy – Violation of Article 6 § 1 – Domestic authorities' failure to guarantee in principle that anyone who had been declared partially incapable, as is the applicant's case, had direct access to a court to seek restoration of his or her legal capacity

The Bulgarian courts found the applicant to be partially incapacitated. He was subsequently placed under the guardianship of a council officer who, without consulting or informing the applicant, placed him in a social care home for men with psychiatric disorders. The applicant complained in particular about his living conditions in that home, the unlawful and arbitrary nature of his deprivation of liberty and the impossibility under Bulgarian law to have the lawfulness of his deprivation of liberty examined or to seek compensation in court. *The non-governmental organisation Interights submitted third-party comments in the case.*

Articles 5 §§ 1, 4 and 5

The Court observed that, as the decision by the applicant's guardian to place him in an institution for people with psychiatric disorders without having obtained his prior consent was invalid under Bulgarian law, and unjustified, his deprivation of liberty was in violation of Article 5 § 1.

The Court noted in particular that the Bulgarian courts were not involved at any time or in any way in the placement and that Bulgarian legislation did not provide for automatic periodic judicial review of the placement in a home for people with mental disorders. There had therefore been a violation of Article 5 § 4.

The Court found that it had not been shown that the applicant had or would have access either prior to its judgment or subsequently to a right to compensation concerning his unlawful detention, in violation of Article 5 § 5.

Article 3

The Court observed that Article 3 prohibited the inhuman and degrading treatment of anyone in the care of the authorities, whatever the reason for the detention. It noted in particular that the CPT, after visiting the care home, had concluded that the living conditions there at the relevant time could be said to amount to inhuman and degrading treatment (see the CPT's [report](#) on its visit to Bulgaria from 10 to 21 September 2006, published on 28 February 2008. In this report the CPT again recommended that provision be made for the introduction of judicial review of the lawfulness of placement in a social care home (see paragraphs 176-177 of the report). It also recommended that efforts be made to ensure that the placement of residents in homes for people with mental disorders and/or deficiency conformed fully to the letter and spirit of the law. Contracts for the provision of social services should specify the legal rights of residents, including the possibilities for lodging complaints with an outside authority). Even though the Bulgarian authorities did not intend to treat the applicant in a degrading way, his living conditions for a period of approximately seven years amounted to degrading treatment, in violation of Article 3.

Article 13

The Court observed that the applicant's placement in the Pastra social care home was not regarded as detention under Bulgarian law. He would not therefore have been entitled, under domestic law, to compensation for the poor living conditions in the institution. The Court therefore concluded that the remedies in question were not effective within the meaning of Article 13.

Article 6 § 1

The Court found that the right to ask a court to review a declaration of incapacity was one of the fundamental procedural rights for the protection of those who had been partially deprived of legal capacity. As direct access of that kind was not guaranteed with a sufficient degree of certainty by the relevant Bulgarian legislation, there had been a violation of Article 6 § 1.

Article 41 (just satisfaction)

The Court held that Bulgaria was to pay the applicant EUR 15,000 in respect of non-pecuniary damage. Judges Tulkens, Spielmann and Laffranque expressed a joint partly dissenting opinion. Judge Kalaydjieva expressed a separate partly dissenting opinion.

- **Right to life**

Choreftakis and Choreftaki v. Greece (no. 46846/08) (Importance 2) – 17 January 2012 – No violation of Article 2 – Domestic authorities' struck a fair balance between the aims of social reintegration and the prevention of recidivism

The applicants are the parents of a young man, who was stabbed to death by a stranger in the street. His assailant was identified and arrested two days later, but the applicants complained that the State authorities allowed and ordered his release from prison on licence, thus contributing to the circumstances leading to their son's death.

In view of the great variety of systems of conditional release in Europe, the Court reiterated that questions relating to the release of prisoners fell within the power of the States concerned to determine their own criminal policy. The Court noted that Articles 105 and 106 of the Greek criminal code seemed to introduce a system of automatic release. But the Court ruled that the system of conditional release in Greece had not upset the fair balance that had to be struck between the aims of social reintegration and preventing recidivism, given that releases are granted upon condition of a minimum term of imprisonment and the display of "good conduct" in prison. The system of conditional release in Greece thus provided sufficient safeguards to protect society from people convicted of

violent criminal offences. By four votes to three, the Court found that there had been no violation of Article 2. Judge Sicilianos, Judges Steiner and Lazarova Trajkovska, expressed a dissenting opinion.

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

Othman (Abu Qatada) v. the United Kingdom (no. 8139/09) (Importance 1) – 17 January 2012 – No violation of Article 3 – The domestic authorities and Jordanian Governments have made genuine efforts to obtain and provide transparent and detailed assurances to ensure that the applicant will not be ill-treated upon return to Jordan, the product of those efforts being superior in both its detail and its formality to any assurances which the Court has previously examined – No violation of Article 13 – Effective remedy in that respect – No violation of Article 5 – There would be no real risk of a flagrant breach of Article 5 in respect of the applicant’s pre-trial detention in Jordan – Violation of Article 6 – Real and demonstrated risk of a flagrant denial of justice (use of evidence obtained by torture of third persons) if the applicant were deported to Jordan

The applicant, a Jordan national, is currently detained in Long Lartin prison, Worcestershire, England. He is suspected of having links with al-Qaeda. In August 2005 he was served with a notice of intention to deport him to Jordan. He alleged, in particular, that he would be at real risk of ill-treatment and a flagrant denial of justice if deported to Jordan. *Third-party comments were received from the human rights organisations Amnesty International, Human Rights Watch and JUSTICE.*

Article 3

The Court noted that, in accordance with its well-established case-law, the applicant could not be deported if there were a real risk that he would be tortured or subjected to inhuman or degrading treatment. The Court found that the UK Government obtained specific and comprehensive diplomatic assurances from the Jordanian Government that the applicant would not be ill-treated. It noted further that any ill-treatment would have serious consequences for Jordan’s relationship with the UK. In addition, **the assurances would be monitored by an independent human rights organisation in Jordan, which would have full access to the applicant in prison.** There would therefore be no violation of Article 3, if the applicant were deported to Jordan.

Article 13

The Court considered that the UK Special Immigration Appeals Commission’s procedures satisfied the requirements of Article 13.

Article 5

The Court noted that Jordan clearly intended to bring the applicant to trial and had to do so within fifty days of his detention. The Court considers that fifty days’ detention falls far short of the length of detention required for a flagrant breach of Article 5 and, consequently, there would be no violation of Article 5 if the applicant were deported to Jordan.

Article 6

The Court found that torture was widespread in Jordan, as was the use of torture evidence by the Jordanian courts. The Court also found that, in relation to each of the two terrorist conspiracies charged against the applicant, the evidence of his involvement had been obtained by torturing one of his co-defendants. When those two co-defendants stood trial, the Jordanian courts had not taken any action in relation to their complaints of torture. In the absence of any assurance by Jordan that the torture evidence would not be used against the applicant, the Court therefore concluded that his deportation to Jordan to be retried would give rise to a flagrant denial of justice in violation of Article 6. **This is the first time that the Court has found that an expulsion would be in violation of Article 6, which reflects the international consensus that the use of evidence obtained through torture makes a fair trial impossible.**

Harkins and Edwards v. the United Kingdom (nos. 9146/07 and 32650/07) (Importance 2) – 17 January 2012 – No violation of Article 3 – No risk for the applicants to be subjected to ill-treatment if deported to the United States, given diplomatic assurances that they would not be sentenced to death, and the proportionate nature of the sentences they faced

The applicants were indicted in the United States (US) for murder. Both applicants were arrested in the United Kingdom (UK) and the US Government requested their extradition. They complained that, if they were extradited to the US, there would be a real risk that they would face the death penalty. They also complained about the possibility of receiving sentences of life imprisonment without parole.

The Court considered that the diplomatic assurances, provided by the US to the UK Government that the death penalty would not be sought in respect of the applicants were clear and sufficient to remove any risk that either of the applicants could be sentenced to death if extradited. As to imprisonment without parole, the Court was not persuaded, concerning the first applicant, that it would be grossly disproportionate for him to be given a mandatory life sentence in the US, given in particular that he had been over 18 at the time of his alleged crime, had not been diagnosed with a psychiatric disorder, and that the killing had been part of an armed robbery attempt. As regards the second applicant, he faced, at most, a life sentence without parole. Given that it could only be imposed after consideration by the trial judge of all relevant factors and only if he was convicted for a pre-meditated murder, the Court concluded that such a sentence would not be grossly disproportionate. Consequently, there would be no violation of Article 3 if either the first or the second applicant were extradited to the US.

Judge Garlicki and judge Kalaydjieva expressed concurring opinions.

Jordan Petrov v. Bulgaria (no. 22926/04) (Importance 2) – 24 January 2012 – Violation of Article 3 (substantive and procedural) – (i) Ill-treatment by police officers and prison guards; poor conditions of detention – (ii) Lack of an effective investigation – No violation of Article 3 (substantive) – Adequate medical care in detention – Violation of Article 6 § 1 – Use of evidence obtained under torture – Violation of Article 8 – Unlawfulness of a legislative provision authorising domestic authorities to monitor prisoner’s correspondence – Violation of Article 13 – Lack of an effective remedy in respect of conditions of detention – No violation of Article 13 – Article 13 does not grant the right to challenge legislative provision before the domestic courts

The applicant alleged that he was subjected to ill-treatment when he was arrested and during the first two days of his detention, and was denied proper medical care. He complained that he had been convicted on the strength of confessions extracted from him under duress and that he had been beaten by his guards. He also complained that there had been no effective investigation into those incidents. Finally, he complained about his conditions of detention.

Article 3 (substantive)

The applicant alleged that he had been ill-treated during his arrest, and then, two years later, while he was in prison. As regards the first allegation, the Court noted that the bodily injuries recorded in the medical reports demonstrated that he had been subjected to treatment, the effects of which exceeded the level of severity required by Article 3. The Bulgarian Government provided no explanation of the cause of those injuries. As regards the second allegation, the Court observed that the applicant had been alone and unarmed against a group of several professional guards. The methods used by the prison officers to control the applicant appeared to be disproportionate. Lastly, the Court also observed that the measures taken by the prison administration to improve the conditions in which prisoners were detained had not been sufficient to offset the conditions described by the applicant. The Court therefore held that Article 3 had been violated. As regards medical care, the Court found no evidence that no medical care was provided to the applicant. The Court therefore concluded that there had been no violation of Article 3.

Article 3 (procedural)

Given the findings of the medical report, the authorities were obliged to carry out a thorough investigation. The two investigations conducted by the Varna Military Prosecutor’s Office and the Pleven Military Prosecutor’s Office respectively resulted in termination of the proceedings, although evidence had been given by police officers, prison guards, the applicant and witnesses, and medical evidence had been submitted during the course of those proceedings. Moreover, the effectiveness of the investigations had been undermined by their limited scope. The Court therefore concluded that there had been a violation of Article 3.

Article 6 § 1

The Court held in particular that the domestic courts, in taking account only of the events having occurred on the day of the arrest, failed to ascertain whether the applicant had been subjected on the previous day to police violence intended to extract a confession, even though they had in their possession a medical report. Therefore, the use of the applicant’s statement as evidence of guilt removed any fairness from of the criminal proceedings against him, in breach of Article 6 § 1.

Article 8

The applicant’s claims that two letters from his representative had been opened and photocopied were corroborated by the fact that the law in force at the material time authorised monitoring of prisoners’ mail. The Court found that there had been a violation of Article 8 (see *Botchev v. Bulgaria*).

Article 13

As regards remedies in relation to conditions of detention at Varna Prison, the Court reiterated that action for damages brought by virtue of the law on State liability did not constitute an effective remedy on account of its purely compensatory nature. The Court therefore found that there had been a violation of Article 13. As regards the monitoring of his correspondence, the Court reiterated that article 13 does not guarantee a remedy enabling applicants to challenge a domestic legislative provision before the domestic courts. The Court therefore found that there had been no violation of Article 13 in that connection.

Article 41 (just satisfaction)

The Court held that Bulgaria was to pay the applicant EUR 10,000 in respect of non-pecuniary damage and EUR 6,650 in respect of costs and expenses. Judge Kalaydjieva expressed a concurring opinion and Judge Bianku expressed a partly dissenting opinion.

Vinter and Others v. the United Kingdom (nos. 66069/09, 130/10 and 3896/10) (Importance 2) – 17 January 2012 – No violation of Article 3 – Proportionate nature of life sentences for murders

The case concerned three applicants who, having been convicted of murder in separate criminal proceedings in England and Wales, are currently serving mandatory sentences of life imprisonment. The applicants complained that their imprisonment without hope of release was cruel and amounted to inhuman and degrading treatment.

The Court held that in each case the High Court had decided that an all-life tariff was required, relatively recently and following a fair and detailed consideration. All three applicants had committed particularly brutal and callous murders. The Court did not consider that these sentences were grossly disproportionate or amounted to inhuman or degrading treatment. There had therefore been no violation of Article 3 in the case of any of the applicants.

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

Kopf and Liberda v. Austria (no. 1598/06) (Importance 3) – 17 January 2012 – Violation of Article 8 – Domestic courts' failure to deal diligently with the applicants' request for visiting rights

The applicants complained that their right to family life was breached as a result of domestic courts' decision to refuse them access to their former foster child.

The Court noted that the applicants had been foster parents of the child for almost four years and had developed emotional links with him and were genuinely concerned about his well being. However, as the child had been living with his biological mother for over three years after the period he had spent with his foster parents, and had no contact with them during that time, the Court considered that it had been in the child's best interests not to allow his foster parents to visit him. The Court concluded that the Austrian courts, at the time of taking their decisions, had struck a fair balance between the competing interests of the child and his former foster parents. However, the Court observed that the proceedings lasted more than three-and-a-half years. While the case had been somewhat complex, no satisfactory explanation had been given for the slow progress of the proceedings and for the fact that, on two occasions, they had come to a standstill. Consequently, the Court found that the Austrian courts had not examined sufficiently rapidly the applicants' request for the right to visit their former foster child, in violation of Article 8.

Article 41 (just satisfaction)

The Court held that Austria was to pay the applicants EUR 5,000 for non-pecuniary damage and EUR 5,000 for costs and expenses.

P.M. v. Bulgaria (no. 49669/07) (Importance 2) – 24 January 2012 – Violation of Article 3 – Lack of an effective investigation into a case of rape

In March 1991, the applicant – aged 13 at the time – went to a party. She was first threatened and raped by one of the guests. She was then beaten by the host who also tried to rape her but was interrupted by his mother who returned home. The applicant complained that the length of the criminal proceedings against her aggressors had been excessive and that she had not had an effective remedy in that respect.

The Court noted that at the time it had become competent to examine the case (which is 7 September 1992, the date of entry into force of the Convention in respect of Bulgaria), the investigation into the applicant's rape complaint was dormant. It observed in particular that no significant investigative steps

had been taken on the ground that the address of one of the suspects was unknown. Moreover, the domestic courts discontinued the proceedings against one of the defendants, and did not punish the other one because of a statute of limitations. The Court therefore found that the Bulgarian authorities' inaction had been on the border of being arbitrary, bearing in mind in particular the gravity of the facts and the applicant's age at the time. There had therefore been a violation of Article 3.

Article 41 (just satisfaction)

The Court held that Bulgaria was to pay the applicant EUR 15,000 in respect of non-pecuniary damage and EUR 3,000 for costs and expenses.

Popov v. France (in French only) (nos. 39472/07 and 39474/07) (Importance 2) – 19 January 2012 – Violation of Article 3 – Domestic authorities' failure to take into account the damaging consequences arising from young children's detention in administrative centres – No violation of Article 3 – Lawfulness of adults' detention in an administrative centre pending their deportation – Violation of Article 5 § 1 – Domestic authorities' failure to look for alternative solution to children's administrative detention – Violation of Article 5 § 4 – Lack of legal status for migrant children accompanying their parents – Violation of Article 8 – Domestic authorities' disproportionate intrusion into the applicants' right to family life on account of the administrative detention of the whole family for two weeks

Two parents and their two children, the applicants are Kazakhstani nationals. They complained about their administrative detention for two weeks, following the rejection of their application for asylum by French authorities, at the Rouen-Oissel centre, pending their removal to Kazakhstan.

Article 3

The Court observed in particular that the Commissioner for Human Rights and the European Committee for the Prevention of Torture pointed out that the promiscuity, stress, insecurity and hostile atmosphere in French administrative centres were bad for young children, in contradiction with international child protection principles according to which the authorities must do everything in their power to avoid detaining children for lengthy periods. The conditions in which the applicants' children – a three-year-old girl and a baby – were obliged to live with their parents in a situation of particular vulnerability heightened by their detention were bound to cause them distress and have serious psychological repercussions. There had therefore been a violation of Article 3. However, this minimum level of severity was not attained as far as the parents were concerned; the fact that they had not been separated from their children during their detention must have alleviated the feeling of helplessness, distress and frustration their stay at the administrative detention centre must have caused them. The Court held that there had been no violation of Article 3 in respect of the parents.

Article 5 § 1 f) and 5 § 4

The Court considered that although the children had been placed with their parents in a wing reserved for families, their particular situation had not been taken into account by the authorities, who had not sought to establish whether any alternative solution could be envisaged. The Court accordingly found a violation of Article 5 § 1 f) in respect of the children. While the parents had had the possibility to have the lawfulness of their detention examined by the domestic courts, the Court noted that the order of deportation did not mention the children themselves. The children therefore found themselves in a legal void, unable to avail themselves of such a remedy. The Court accordingly also found a violation of Article 5 § 4 in respect of the children.

Article 8

Referring to a broad consensus, particularly in international law, that the children's interests were paramount in all decisions concerning them, the Court noted that France was one of the only three European countries that systematically had accompanied minors placed in detention. **The Court also noted that the Office of the High Commissioner for Refugees, the French National Security Ethics Commission (CNDS) and the Defender of Children had all spoken out in favour of alternatives to detention.** Yet the authorities did not appear to have sought any solution other than detention, or to have done everything in their power to have the removal order enforced as promptly as possible. In the [*Muskhadzhiyeva and Others v. Belgium case*](#) (in French only), the Court had rejected a complaint similar to the applicants' one. However, **considering the above factors and the recent case-law developments concerning "the child's best interests" in the context of the detention of child migrants, the Court considered that the child's best interests called not only for families to be kept together but also for the detention of families with young children to be limited.** In the applicants' circumstances, two weeks' detention in a closed facility was disproportionate to the aim pursued. The Court held that there had been a violation of Article 8.

Article 41 (just satisfaction)

The Court held that France was to pay the applicants EUR 10,000 in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses.

Zontul v. Greece (no. 12294/07) (Importance 2) – 17 January 2012 – Violation of Article 3 (substantive and procedural) – (i) Torture of the applicant on account of the rape with a truncheon inflicted on him by a coastguard officer – (ii) Domestic criminal system’s lack of deterrent effect as regards the commission of such an infraction; domestic authorities’ failure to allow the applicant to be involved in the proceedings as a civil party

The applicant is an illegal migrant who complained that he had been raped with a truncheon by one of the coastguard officers supervising him, that the authorities had refused to allow him to be examined by a doctor who was on the premises, that the conditions of detention in the asylum seekers’ camp had been poor, that the authorities had failed to conduct a thorough, fair and impartial investigation and that those responsible had not been adequately punished, as the Appeals Tribunal had not considered that his rape with a truncheon constituted an aggravated form of torture. In November 2003 the applicant contacted the Greek Ombudsman. The latter wrote to the Minister of Merchant Shipping asking him to order a fresh disciplinary inquiry as the first inquiry had not taken into consideration the rape of the applicant by one of the coastguard officers. The Ombudsman pointed out that the case was damaging to the image and honour of the coastguard service and cast doubt on the country’s ability to ensure respect for human rights.

Article 3 (substantive)

The Court observed that the Naval Tribunal, like the Appeals Tribunal, had clearly established the offences of assault and rape. The treatment, to which the applicant had been subjected, in view of its cruelty and its intentional nature, had unquestionably amounted to an act of torture from the standpoint of the Convention.

Article 3 (procedural)

The Court noted in particular that the penalty imposed on the coastguard – a 792 euros fine – had been insufficient in view of the fact that a fundamental Convention right had been breached. It therefore took the view that the Greek criminal justice system, as applied in the applicant’s case, had not had a deterrent effect such as to prevent the torture of which the applicant had been victim, nor had it provided him with adequate redress. Moreover, because he was no longer in Greece, and in spite of his efforts to track the progress of and participate in the proceedings, the applicant had not been kept informed by the Greek authorities in such a way as to enable him to exercise his rights as a civil party and claim damages. The Greek authorities had therefore failed in their duty of information. Accordingly, the Court held that there had been a violation of Article 3, on account of the acts committed and of the failure to allow the applicant to be involved in the proceedings as a civil party.

Article 41 (just satisfaction)

The Court held that Greece was to pay the applicant EUR 50,000 in respect of non-pecuniary damage and EUR 3,500 in respect of costs and expenses.

Alchagin v. Russia (no. 20212/05) and A.A. v. Russia (no. 49097/08) (Importance 3) – 17 January 2012 – Violation of Article 3 (substantive and procedural) – (i) Poor conditions of detention – (ii) Lack of an effective remedy – No violation of Article 6 – Fairness of proceedings

Respectively convicted of robbery, theft and kidnapping, the applicants complained of having been ill-treated and alleged that no effective investigation into those complaints was carried out. One of the applicants also complained that confession statements obtained under duress were used at his trial.

Article 3 (substantive)

The Court observed that medical reports documenting the applicants’ injuries, along with their allegations that the beatings had taken place while he was under the authorities’ control in custody, created a presumption of fact that he had been subject to ill-treatment. The Court found that the domestic authorities had made no effort to provide an explanation to these facts when the complaint was addressed to them; in the proceedings before the Court, the Government had not advanced any convincing explanation either. There had accordingly been a violation of Article 3 as regards his ill-treatment.

Article 3 (procedural)

The Court further found a violation of Article 3 as regards the State's failure to conduct an effective investigation. In particular, the Court noted with concern that, having recorded a number of injuries on one of the applicant's body, the staff of the remand centre had omitted to initiate a proper medical examination or an inquiry. It would have been incumbent on the authorities to respond to his credible complaint without undue delay and to provide a plausible explanation for his injuries, which they had failed to do.

Article 6

The Court found no violation of Article 6 on account of the use of evidence obtained under duress, noting in particular that the applicant complaining of such a violation had during the jury trial pleaded guilty of the offences of which he had subsequently been convicted, that he had been duly represented during the criminal proceedings and had been able to challenge before the trial court the admissibility of the evidence obtained under pressure.

Article 41 (just satisfaction)

The Court held that Russia was to pay EUR 18,000 to one of the applicant and EUR 25,000 to the other one, in respect of non-pecuniary damage.

- **Freedom of assembly**

Szerdahelyi v. Hungary (no. 30385/07) (Importance 3) and Patyi v. Hungary (No.2) (no. 35127/08) (Importance 1) – 17 January 2012 – Violation of Article 11 – Unlawful interference with the applicants' right to freedom of assembly on account of a disproportionate decision to classify a zone as "security operational"

Both applicants planned to organise demonstrations on Kossuth Square in Budapest. In both cases, the Budapest Police Department refused to deal with their applications, observing that the area had been declared a "security operational zone" and was thus outside its jurisdiction as concerned authorisation to demonstrate. The applicants complained, in particular, that the police measure prevented them from exercising their right to peaceful assembly.

In both cases, the Court dismissed the Hungarian Government's preliminary objection that the applicants had not exhausted the domestic remedies. The Government had argued that the applicants had only challenged the police decision on non-competence but not the original decision to declare the square in front of Parliament a "security operational zone". However, the Court was not convinced that the proceedings in that respect could have been considered an effective remedy. Given the instantaneous nature of a political demonstration, a judicial procedure, which was lengthy, could not be regarded as adequate and had to have had a "chilling effect" on the right to freedom of assembly.

The Court noted that, following the Hungarian courts' quashing of the police decisions, the relevant authorities had found that the proportionality of the decision to declare the square a "security operational zone" had not been proven. In the Court's view, those rulings had effectively, even if retroactively, removed the legal basis of the measure. Those considerations were sufficient to enable the Court to conclude that the ban on demonstrations on Kossuth Square had been without a basis in Hungarian law. There had accordingly been a violation of Article 11 in both cases.

Article 41 (just satisfaction)

The Court held that Hungary was to pay Mr Szerdahelyi's son EUR 2,400 in respect of non-pecuniary damage and EUR 1,100 in respect of costs and expenses, and to pay Mr Patyi EUR 2,400 in respect of non-pecuniary damage and EUR 1,500 in respect of costs and expenses. Judge Jočienė expressed a dissenting opinion to the first judgment.

2. Other judgments issued in the period under observation

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

- Press release by the Registrar concerning the Chamber judgments issued on 17 Jan. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 19 Jan. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 24 Jan. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 26 Jan. 2012: [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.

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

<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>
Austria	17 Jan. 2012	Krone Verlag GmbH & Co KG and Krone Multimedia GmbH & Co KG (no. 33497/07) Imp. 2 Kurier Zeitungsverlag und Druckerei GmbH (no. 3401/07) Imp. 2	No violation of Art. 10	Proportionate interference with the applicants' right to freedom of expression concerning domestic courts' decisions to award compensation to a victim, who had been severely ill-treated and sexually abused by her father, and her stepmother, after her identity had been disclosed in the applicants' newspapers	Link Link
Finland	17 Jan. 2012	Lahtonen (no. 29576/09) Imp. 3	Violation of Art. 10	Disproportionate interference with the applicant's right to freedom of expression on account of his criminal conviction for the publication of an article disclosing the identity of a suspect, although a defendant's name was public information	Link
Germany	19 Jan. 2012	Kronfeldner (no. 21906/09) Imp. 3	Violation of Art. 5 § 1	Unlawful extension, with retrospective effect, of the applicant's preventive detention from a maximum period of ten years to an unlimited period of time	Link
Germany	19 Jan. 2012	Reiner (no. 28527/08) Imp. 3	No violation of Art. 5 § 1	Lawfulness of a chronic offender's preventive detention	Link
Greece	17 Jan. 2012	Takush (no. 2853/09) Imp. 2	Violation of Art. 1 of Prot. 7	Domestic authorities' failure to prove the threat to public order that the applicant, facing a deportation order, allegedly represented	Link
Greece	17 Jan. 2012	Tsitsiriggos (no. 29747/09) Imp. 2	Violation of Art. 5 § 1 Violation of Art. 5 § 4	Arbitrary extension of the applicant's pre-trial detention Lack of an effective remedy	Link
Hungary	17 Jan. 2012	István Gábor Kovács (no. 15707/10) Imp. 3	Violation of Art. 3 Violation of Art. 8	Overcrowding conditions of detention in Szeged Prison Infringement of the applicant's right to respect for family life on account of domestic authorities' decision to restrict visits to the applicant to one hour a month during detention on remand	Link
Latvia	17 Jan. 2012	Krivošejs (no. 45517/04) Imp. 3	No violation of Art. 3	Adequate medical care provided to the applicant in detention	Link
Lithuania	17 Jan. 2012	Varapnickaitė-Mažyliienė (no. 20376/05) Imp. 3	No violation of Art. 8	Proportionate interference with the applicant's right to respect for private life on account of the publication of an article concerning the applicant and her minor son, whose content did not allow the identification of the applicant	Link
Moldova	17 Jan. 2012	Levința (no. 2) (no. 50717/09) Imp. 3	Violation of Art. 5 § 1 No violation of Art. 5 § 3 Violation of Art. 5 § 4	Domestic authorities' failure to release the applicants immediately after the quashing of their convictions Justified extension of the applicants' pre-trial detention Domestic authorities' failure to inform the defence of hearings' schedules	Link
Moldova	24 Jan. 2012	Brega and Others (no. 61485/08) Imp. 2	Violation of Art. 5 § 1 Violation of Art. 11	Unlawful detention of the applicants Interference with the applicant's right to freedom of assembly	Link

Moldova	24 Jan. 2012	Feraru (no. 55792/08) Imp. 2	Violation of Art. 3 No violation of Art. 5 § 1 Violation of Art. 5 § 3 Violation of Art. 5 § 4	Poor conditions of detention Lawfulness of detention Domestic courts' failure to give relevant and sufficient reasons for ordering and extending the applicant's detention pending trial Domestic courts' failure to grant access to the defence to materials on which they based their decisions	Link
Poland	17 Jan. 2012	Biziuk (no. 2) (no. 24580/06) Imp. 2	Violation of Art. 5 § 1 Violation of Art. 5 § 4	Partly unlawful detention Excessive length (25 days) of proceedings as regards the lawfulness of the applicant's placement in a psychiatric hospital	Link
Poland	24 Jan. 2012	Miażdzyk (no. 23592/07) Imp. 2	Violation of Art. 2 of Prot. 4	Disproportionate interference with the applicant's right to liberty of movement on account of domestic authorities' decision to ban him from leaving Poland for 5 years and 2 months	Link
Romania	24 Jan. 2012	Costăchescu (no. 37805/05) Imp. 3	Just satisfaction	Just satisfaction following the judgment of 29 December 2009	Link
Romania	24 Jan. 2012	Toma (no. 1051/06) Imp. 2	Violation of Art. 7	Unlawful annulment of the applicant's driver's licence, almost ten years after he had been stopped for drunk-driving and based on a law that did not exist at the time of his offence	Link
Russia	24 Jan. 2012	Dmitriyev (no. 13418/03) Imp. 3	No violation of Art. 3 (substantive) Violation of Art. 3 (procedural) Violation of Art. 5 Violation of Art. 8	Lack of sufficient evidence to support the applicant's allegation that he had been subjected to ill-treatment Lack of an effective investigation Unlawful and arbitrary detention Interference with the applicant's right to private life on account of the forced and unlawful entrance of policemen into the applicant's house	Link
Russia	24 Jan. 2012	Mitrokhin (no. 35648/04) Imp. 3	Violation of Art. 3	Poor conditions of detention	Link
Russia	24 Jan. 2012	Nechto (no. 24893/05) Imp. 3	Violation of Art. 3 (procedural) No violation of Art. 3 (substantive) Violation of Art. 6 § 3 (c) in conjunction with Art. 6 § 1 Violation of Art. 6 § 3 (d) taken together with Art. 6 § 1	Lack of an effective investigation into allegations of ill-treatment Lack of sufficient evidence to support the applicant's allegation that he had been subjected to ill-treatment Infringement of the applicant's defence rights on account of the absence of a lawyer while in police custody Infringement of the applicant's right to a fair trial on account of his conviction based on evidence he was not able to challenge	Link
Russia	24 Jan. 2012	Valeriy Samoylov (no. 57541/09) Imp. 2	No violation of Art. 3 Violation of Art. 5 § 3	Adequate medical assistance provided to the applicant while in detention Excessive length of detention (over 2 years)	Link
Russia	17 Jan. 2012	Fetisov and Others (nos. 43710/07, 6023/08, 11248/08, 27668/08, 31242/08, 52133/08) and Imp. 2	No violation of Art. 3 Violation of Art. 13 Violation of Art. 34 (in respect of the applicant in application no. 27668/08)	Inadequate but acceptable, under Art.3 requirements, conditions of detentions Lack of an effective remedy Hindrance to the applicant's right to individual petition on account of the opening, by prison authorities, of the Court's letters addressed to him	Link

Spain	17 Jan. 2012	Alony Kate (no. 5612/08) Imp. 2	Violation of Art. 6 § 1 No violation of Art. 6 § 1	Domestic authorities' failure to guarantee the impartiality of domestic courts Fairness of proceedings as regards the use of evidence	Link
the Czech Republic	19 Jan. 2012	Rodinná záložna, spořitelní a úvěrní družstvo and Others (no. 74152/01) Imp. 3	Just satisfaction	Just satisfaction following the judgment of 9 March 2011	Link
Turkey	17 Jan. 2012	Feti Demirtaş (no. 5260/07) Imp. 2	Violation of Art. 3 Violation of Art. 9 Violation of Art. 6 § 1	Ill-treatment in prison Unnecessary interference with the applicant's right to freedom of thought on account of his conviction for having refused to serve in the army Unfairness of proceedings on account of the obligation for the applicant to appear before a military tribunal	Link
Turkey	17 Jan. 2012	Fidancı (no. 17730/07) Imp. 3	Violation of Art. 6 § 3 (c) in conjunction with Art. 6 § 1	Domestic authorities' failure to provide the applicant with legal assistance while in police custody	Link
Turkey	17 Jan. 2012	Hasko (no. 20578/05) Imp. 3	Violation of Art. 6 § 1	Excessive length of proceedings (more than 11 years) and domestic authorities' failure to communicate the written opinion of the Principal Public Prosecutor to the applicant	Link
Turkey	17 Jan. 2012	Keshmiri (no. 2) (no. 22426/10) Imp. 3	Violation of Art. 5 § 1 Violation of Art. 5 § 4	Unlawful detention of the applicant Lack of an effective remedy	Link
Turkey	17 Jan. 2012	Mehmet Ali Okur (no. 31869/06) Imp. 3	Violation of Art. 3 (substantive and procedural)	Ill-treatment in police custody; lack of an effective investigation	Link
Ukraine	19 Jan. 2012	Korneykova (no. 39884/05) Imp. 2	Violation of Art. 5 § 1 (c) Violations of Art. 5 §§ 1 (c) and 3 Violation of Art. 5 § 4 Violation of Art. 5 § 5	Unlawful and arbitrary arrest and detention of the applicant Domestic authorities' failure to provide sufficient reasons for their decision to impose a custodial measure on the applicant Domestic authorities' failure to summon the applicant to his appeal's hearings Domestic legislation's failure to provide for compensation in case of breach of Article 5	Link
Ukraine	19 Jan. 2012	Smolik (no. 11778/05) Imp. 2	Violation of Art. 5 § 1 (c)	Unlawful detention of the applicant	Link
Ukraine	26 Jan. 2012	Nakonechnyy (no. 17262/07) Imp. 3	Violation of Art. 6 § 1	Excessive length of criminal proceedings (more than 10 years)	Link

3. Repetitive cases

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

The role of the 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>
Russia	17 Jan.	Kosheleva and Others (no.	Violation of Art. 34	Hindrance to the applicants' right to individual petition on account of their intimidation by

	2012	9046/07) link Lavrov (no. 33422/03) link Vladimir Melnikov (no. 38202/07) link	Violation of Art. 6 § 1 and Art. 1 of Prot. 1 (concerning cases n°33422/03 and 38202/07)	domestic authorities Delayed enforcement of judgments in the applicants' favour (over ten months; over 12 years and over six years respectively)
Turkey	17 Jan. 2012	Cemil Tekin (no. 33153/04) link	Violation of Art. 5 § 4	Lack of an effective remedy to challenge the lawfulness of the applicant's detention

4. Length of proceedings cases

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

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Link to the judgment</u>
Ireland	19 Jan. 2012	O. (no. 43838/07)	Link
Lithuania	17 Jan. 2012	Butkevičius (no. 23369/06)	Link
Portugal	17 Jan. 2012	Jesus Mateus (no. 58294/08)	Link
Portugal	17 Jan. 2012	Domingos Marques Ribeiro Maçarico (no 12363/10)	Link
Turkey	17 Jan. 2012	Dolutaş (no. 17914/09)	Link
Turkey	24 Jan. 2012	Medeni Uğur (no. 49651/06)	Link

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Bulgaria	04 Jan. 2012	M.T. (no 37723/08) link	Alleged violation of Art. 3 (ill-treatment in police station), Art. 13 (lack of an effective remedy)	Struck out of the list (the applicant no longer wished to pursue her application)
Estonia	04 Jan. 2012	Velleste (no 67623/10) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings, unfair trial), Art. 6 § 2 (infringement of the applicant's right to be presumed innocent), Art. 6 § 3 (c) (lack of police impartiality), Art.13 (unlawful replacement of a judge), Art. 7 § 1 ("application of "shock incarceration"), Art. 1 of Prot. 1 and Art. 3 (incompatibility of the applicant's detention with his health problems)	Partly inadmissible as manifestly ill-founded (concerning claims under Art. 3), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Estonia	04 Jan. 2012	Andrejev (no 64016/10) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 6 §§ 1, 3 (a), (b), (d), Art. 7 § 1 and Art 14, Art. 4 of Prot. 7 and Art.	Partly inadmissible for non-exhaustion of domestic remedies (concerning the length of proceedings), partly inadmissible

			1 of Prot. 12 (domestic authorities' failure to allow adequate time to the applicant to prepare his defence, dismissal of his requests for the removal of the prosecutor and the judge, domestic authorities' failure to summon witnesses in his favour, conviction for an offence for which he had already been acquitted, conviction based on retroactive application of the criminal law, wrongful assessment of evidence and incorrect construction of the law)	as manifestly ill-founded (concerning the remainder of the application)
Germany	04 Jan. 2012	Gül (no 57249/09) link	Alleged violation of Art. 6 § 3 (a) and (b) (Public Prosecutor's refusal to grant the applicant's counsel access to the files in the preliminary proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Moldova	04 Jan. 2012	Paduret (no 23003/05) link	Alleged violation of Art. 3 (ill-treatment in police station), Art. 5 § 1 (unlawful arrest), Art. 5 § 2 (lack of prompt information about the reasons for the applicant's arrest), Art. 5 § 3 (unlawful detention), Art. 5 § 5 (insufficient compensation), Art. 6 § 1 (violation of the applicant's right of access to a court), Art. 8 (psychological trauma of the applicant on account of his ill-treatment)	Struck out of the list (friendly settlement reached)
Poland	04 Jan. 2012	PKS Tychy SP. Z O.O. and other applications (no 18342/08; 10005/09) link	Alleged violation of Art. 6 § 1 (lack of independence of the assessors, inappropriate assessment of the evidences, unfairness of proceedings), Art. 13 (lack of an effective remedy), Art. 8 (infringement of the applicant's right to respect for private life on account of a domestic court's decision to order him to allow the court expert to access his home)	Partly struck out of the list (unilateral declaration of Government concerning the alleged lack of independence of the assessors), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Romania	04 Jan. 2012	T.N.B. and C.D. (no 6863/09) link	Alleged violation of Articles 6 § 1 and 13 (domestic authorities' failure to enforce a domestic court judgment in the applicant's favour)	Incompatible <i>ratione materiae</i>
Serbia	04 Jan. 2012	Petrović (no 40485/08) link	Alleged violation of Articles 2 and 3 (ill-treatment inflicted on the applicant's son by police officers; lack of an effective investigation in that respect)	Partly adjourned (concerning the lack of an effective investigation in respect of the applicant's son's ill-treatment and death), partly incompatible <i>ratione temporis</i> with the provision of the Convention (given that the other alleged violations occurred before the entry into force of the Convention in Serbia, concerning the remainder of the application)
Slovakia	04 Jan. 2012	Horakova and Others (no 54831/07) link	Alleged violation of Art. 1 of Prot. 1 (as a result of the implementation of domestic rules governing rent control), and Art. 13 (lack of an effective remedy)	Partly admissible (concerning the claim under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovakia	04 Jan. 2012	Riedel and Stinova (no 44218/07) link	Alleged violation of Art. 1 of Prot. 1 (as a result of the implementation of domestic rules governing rent control), Art. 14 (discriminatory treatment on account of the restrictions imposed by the rent-control scheme), Art. 13 (lack of an effective remedy)	Partly admissible (concerning the claim under Art. 1 of Prot. 1 and Art. 14 taken in conjunction with Prot. 1), partly struck out of the list (it is no longer required to examine whether the facts amounted to a violation of the Convention concerning the claim under Art.

Slovakia	04 Jan. 2012	Rudolfer (no 38082/07) link	Idem.	13) Partly admissible (concerning the claim under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (concerning the claim under Art. 13), partly struck out of the list (it is no longer required to examine whether the facts amount to a violation of the Convention concerning the claim under Art. 14)
Slovakia	04 Jan. 2012	Bukovcanova and Others (no 23785/07) link	Idem.	Idem.
Slovakia	04 Jan. 2012	Bitto and Others (no 30255/09) link	Idem.	Partly admissible (concerning the claim under Art. 1 of Prot. 1 and Art. 14 taken in conjunction with Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovakia	04 Jan. 2012	Kordos and Others (no 47150/08) link	Idem.	Partly admissible (concerning the claim under Art. 1 of Prot. 1), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovakia	04 Jan. 2012	Sochor (no 33176/08) link	Idem.	Partly admissible (concerning the claim under Art. 1 of Prot. 1 and Art. 14 taken in conjunction with Prot. 1), partly struck out of the list (it is no longer required to examine whether the facts amount to a violation of the Convention concerning the claim under Art. 13).
Slovenia	04 Jan. 2012	Merc and other applications (no 20083/06 etc.) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy)	Struck out of the list (the matter has been resolved at the domestic level)
Slovenia	04 Jan. 2012	Livadic and other applications (no 5704/10; 5724/10 etc.) link	Alleged violation of Articles 3 and 8 (poor conditions of detention) and Art. 14 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)
Slovenia	04 Jan. 2012	Slavec (no 54180/08) link	Alleged violation of Art. 6 § 1 (excessive length and unfairness of proceedings), Art. 13 (lack of an effective remedy), Art. 1 of Prot. 1 (violation of the applicant's right to peaceful enjoyment of his possessions)	Struck out of the list (friendly settlement reached)
Slovenia	04 Jan. 2012	Cucek (no 14503/04) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy), Art. 6 § 1 in conjunction with Art. 14 (unfairness and discriminatory labour proceedings)	Partly struck out of the list (it is no longer justified to continue with the examination of the application concerning the length of proceedings and the lack of an effective remedy), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Slovenia	04 Jan.	Petrinja Poropat (no	Alleged violation of Art. 6 § 1 (excessive length of proceedings),	Struck out of the list (friendly settlement reached)

	2012	43945/06) link	Art. 13 (lack of an effective remedy)	
Slovenia	04 Jan. 2012	Setnicar and Muhleisen Setnicar (no 16044/06) link	Idem.	Idem.
Slovenia	04 Jan. 2012	Ferlez and other applications (no 18500/06; 36407/06; 36601/06) link	Idem.	Struck out of the list (the applicants no longer wished to pursue their application)
Slovenia	04 Jan. 2012	Hadzic (no 24574/06) link	Idem.	Struck out of the list (friendly settlement reached)
Slovenia	04 Jan. 2012	Gobec (no 21999/07) link	Idem.	Idem.
Slovenia	04 Jan. 2012	Gaspari (no 5091/07) link	Alleged violation of Articles 1, 5, 6, 7, 8, 13 and 17 (excessive length of proceedings and lack of an effective remedy)	Idem.
Sweden	04 Jan. 2012	Hikmat Habib (no 11152/09) link	Alleged violation of Articles 2 and 3 (risk to be subjected to ill-treatment or killed if deported to Iraq)	Inadmissible (failure to substantiate his claim)
Sweden	04 Jan. 2012	Muco (no 31243/09) link	Alleged violation of Art. 2 (risk of being killed if deported to Burundi), Art. 6 § 1 (unfairness of asylum proceedings)	Partly inadmissible as manifestly ill-founded (applicant's failure to substantiate his claim, partly incompatible <i>ratione materiae</i> (concerning claim under Art.6: this provision does not apply to asylum proceedings as they do not concern the determination of either civil rights and obligations or of any criminal charge)
Turkey	04 Jan. 2012	Kartal (no 28658/10) link	In particular alleged violation of Art. 3 (ill-treatment in police station), Art. 5 §§ 3, 4 and 5 (excessive length of detention), Art. 6 § 1 (excessive length of proceedings), Art. 8 (affection of the applicant's private and family life on account of the prolongation of his trial)	Partly adjourned (concerning claims under Articles 5 §§ 3, 4, 5 and 6 § 1), partly inadmissible (non-respect of the six-month requirement concerning claim under Art. 3), partly inadmissible for non-exhaustion of domestic remedies (concerning the lack of legal assistance in police custody), partly inadmissible as manifestly-ill-founded (failure to substantiate his claim under Art. 8)
Ukraine	04 Jan. 2012	Lalo (no 31925/06) link	The complaint concerned the examination of the applicant's civil case by the appellate court in her absence	Struck out of the list (the applicant no longer wished to pursue her application)
Ukraine	04 Jan. 2012	Barnashov (no 25432/08) link	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Art. 13 (lack of an effective remedy), Art. 6 § 2 (infringement of the applicant's right to be presumed innocent)	Partly struck out of the list (unilateral declaration of Government concerning excessive length of proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	04 Jan. 2012	Babenko (no 68726/10) link	The applicants complained that they were deprived of their right to an apartment	Incompatible <i>ratione materiae</i>
Ukraine	04 Jan. 2012	Burda-Ukrayina, DP (no 386/05) link	Alleged violation of Art. 10 (unfairness competition procedure and sanctions applied to the applicant company for having published untrue information)	Struck out of the list (the applicant no longer wished to pursue his application)

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 23 January 2012: [link](#)
- on 30 January 2012: [link](#)

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

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

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

Communicated cases published on 23 January 2012 on the Court's Website and selected by the NHRS Unit

The batch of 23 January 2012 concerns the following States (some cases are however not selected in the table below): Austria, Belgium, Georgia, Hungary, Ireland, Italy, Lithuania, Moldova, Poland, Romania, Serbia, Slovenia, Switzerland, the United Kingdom, Turkey and Ukraine.

<u>State</u>	<u>Date of Decision to Communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Austria and Italy	06 Jan. 2011	Halimi no 53852/11	Alleged violation of Art. 3 – Alleged risk for the applicant to be deprived from accommodation, subsistence and medical treatment if deported to Italy, circumstances that were allegedly aggravated by the applicant's precarious physiological and psychological health status
Hungary	04 Jan. 2011	Horváth and Kiss no 11146/11	Alleged violation of Art. 2 of Prot. 1 read in conjunction with Art. 14 – Direct and/or indirect discrimination on account of the applicants' education, on the basis of their Romani origin, in a remedial school
Moldova	03 Jan. 2011	Munteanu no 34168/11	Alleged violation of Articles 3 and 8 – Domestic authorities' alleged failure to protect the applicants from domestic violence and to prosecute those responsible for such violence – Alleged violation of Art. 13 – Lack of an effective remedy – Alleged violation of Art. 14 – Gender-based discrimination
the United Kingdom	03 Jan. 2011	The Poa and Others no 59253/11	Alleged violation of Art. 11 – Alleged infringement of the applicants' freedom of association on account of domestic prohibition on prison officers' right to take industrial action
Turkey	06 Jan. 2011	Baytüre no 3270/09	Alleged violation of Articles 2 and 8 – Mandatory vaccination amounting to the paralysis of the applicant; lack of compensation
Turkey	06 Jan. 2011	Kaya no 52056/08	Alleged violation of Art. 10 – Conviction of the applicant on account of a speech delivered to a trade union meeting – Alleged violation of Art. 2 of Prot. 7 – Lack of any possibility to appeal a definite judgment

Communicated cases published on 30 January 2012 on the Court's Website and selected by the NHRS Unit

The batch of 30 January 2012 concerns the following States (some cases are however not selected in the table below): Austria, Bulgaria, France, Georgia, Germany, Italy, Poland, Portugal, Russia, Turkey and Ukraine.

<u>State</u>	<u>Date of Decision to Communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
France	12 Jan. 2011	A.L. no 7579/11	Alleged violation of Art. 3 – Risk to be subjected to ill-treatment if expelled to Cameroun, on account of the applicant's sexual orientation and past convictions
Italy	10 Jan. 2011	Taddeucci and McCALL no 51362/09	Alleged violation of Art. 14 in conjunction with Art. 8 – Discrimination on grounds of sexual orientation
Russia	13 Jan. 2011	Ibragimov no 26586/08	Alleged violation of Articles 2 and 13 – Domestic authorities' failure to diagnose the applicant's son's tuberculosis during his detention in prison
Turkey	12 Jan. 2011	Bayar no 24548/10	Alleged violation of Art. 10 – Conviction of the applicant on account of the publication of an article devoted to the "Kurdish dynamic" – Alleged violation of Art. 6 § 1 – Excessive length of proceedings – Alleged violation of Art. 13 – Lack of an effective remedy

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

Press Conference (26.01.2012)

The Court held its annual press conference on Thursday 26 January 2012. On this occasion, Sir Nicolas Bratza, the President of the Court, presented a summary of the Court's activities and its statistics for 2011. He said that the European governments must assume their part of the shared responsibility for the protection of human rights across the continent. [Press Release](#), [Annual Report 2011](#), [Facts and figures 2011](#), [Analysis of statistics](#), [Photo Gallery](#), [Webcast of the Press Conference](#)

Opening of the judicial year (27.01.2012)

The Court's judicial year was formally opened on Friday 27 January 2012. Some 200 leading judicial figures from across Europe were invited to participate in a seminar on the topic "How to ensure greater involvement of national courts in the Convention system?". [Press Release](#), [More information](#)

Video on admissibility (27.01.2012)

The Court launched a short video in English and French on the criteria for admissibility, produced with the support of the Principality of Monaco ([see video](#)). The video, which is approximately three minutes long, is **aimed at the general public and sets out the main conditions required in order to apply to the Court; failure to satisfy these conditions is the reason why the vast majority of applications are rejected.** [Press Release](#), [See video](#)

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:

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:

^{*} 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

[†] 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.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).

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 presents 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

Enhanced procedure

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.

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).

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](#)

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

B. 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

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

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

Part III: General Agenda

The “General Agenda” presents events that either took place or were announced* during the period under observation (16.01 – 29.01.2012) for this RSIF.

January 2012

- 16-17 January:
 - > PACE co-rapporteurs monitoring visit to Armenia
 - > PACE delegation post-election visit to Tunisia
- 19-20 January:
 - > PACE rapporteur fact-finding visit to Belgrade
- 20-21 January:
 - > PACE delegation “post-electoral” visit to Russia ahead of plenary session
- 23-25 January:
 - > 255th session of the European Committee of Social Rights
- 24-25 January:
 - > Seminar on the role of Probation in Kyiv, Ukraine ([Read more](#))
- 25 January:
 - > Steering Committee Meeting of the COMASYT Project ([Read more](#))
- 26 January:
 - > Launch of a new project in Bosnia and Herzegovina in the field of prison reform ([Read more](#))

February 2012

- 2-4 February
 - > Working Group Meeting on legal amendments in the Turkish system ([Read more](#))

March 2012

- 19-23 March
 - > 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)

The conclusions of the European Committee of Social Rights for 2011 are public (24.01.2012)

It is now possible to consult Conclusions 2011 and Conclusions XIX-4 (2011) by State Party. These conclusions contain the assessments of the European Committee of Social Rights on the application of the Charter with regard to rights pertaining to children, family and migrants ([more information](#)).

“The Former Yugoslav Republic of Macedonia” ratified the Revised Charter (25.01.2012)

Following the ratification of the Revised Charter by "the Former Yugoslav Republic of Macedonia", 32 of the 43 States Parties to the European Social Charter are now bound by the Revised Charter. The "former Yugoslav Republic of Macedonia" ratified the Revised Charter on 6 January 2012 accepting 60 of its 98 provisions. The instrument will enter into force on 1 March 2012 ([table of accepted provisions](#)).

Five complaints have been submitted against Greece concerning a reduction of pension schemes (26.01.2012)

The following complaints against Greece were registered on 2 January 2012 and relate to Greek legislation imposing a reduction of pension schemes in both the private and public sectors:

- Federation of employed pensioners of Greece (IKA –ETAM), [Complaint No. 76/2012](#)
- Panhellenic Federation of Public Service Pensioners, [Complaint No. 77/2012](#)
- Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.), [Complaint No. 78/2012](#)
- Panhellenic Federation of pensioners of the public electricity corporation (POS-DEI), [Complaint No. 79/2012](#)
- Pensioners' Pensioner's Union of the Agricultural Bank of Greece (ATE), [Complaint No. 80/2012](#)

The complainant trade unions allege that the laws imposing a reduction of pensions were passed in violation of Articles 12§3 (Right to social security) and 31§1 (Right to housing) of the Charter of 1961.

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

The CPT published report on “the former Yugoslav Republic of Macedonia” (25.01.2012)

The CPT has published on 25 January 2012 [report on its ad hoc visit to Greece in January 2011](#), together with the [response of the Greek Government](#). The report focuses on prisons, police custody, psychiatric and mental health institutions in the “former Yugoslav Republic of Macedonia and it states that a significant number of persons alleged ill-treatment by police officers and recommends national authorities to continue to take action to combat ill-treatment by police, including an effective investigation into every allegation. The report also states that fundamental change is required to address challenged facing the prison system ([Read more](#)).

C. European Committee against Racism and Intolerance (ECRI)

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

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

Bulgaria: publication of the 2nd cycle ACFC Opinion (23.01.2012)

The FCNM published on 23 January 2012 its Second Opinion on Bulgaria, together with the government's Comments ([Read the Opinion](#)).

Switzerland: receipt of the 3rd cycle State Report (26.01.2012)

Switzerland submitted on 26 January 2012 its [third state report](#) in French. It is also available in [German](#), [Italian](#) and [Romanche](#).

E. Group of States against Corruption (GRECO)

GRECO called on the USA to ratify the Criminal Law Convention on Corruption (26.01.2012)

GRECO called for the United States of America to ratify the Criminal Law Convention on Corruption and to fully incorporate it into the law. GRECO stresses that the United States is one of the very few member states which are not a party to the Convention and its Additional Protocol. Although the US legislation and practice provide for a high degree of “functional” consistency with the Convention and the enforcement regime is effective in prosecuting corruption offences, US law does not appear to meet all the requirements of the Convention, for example, as regards bribery in a foreign context and private sector bribery ([read more](#) – links to the report : [theme I](#) / [theme II](#)).

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

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

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
CZECH REPUBLIC	Agreement on the Transfer of Corpses (ETS No. 80)	X		23 Jan. 2012
ITALIA	Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (CETS No. 205)	X		17 Jan. 2012
INDIA	Convention on Mutual Administrative Assistance in Tax Matters as amended by its 2010 Protocol (ETS No. 127)		X	26 Jan. 2012
LATVIA	Protocol No.13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (ETS No. 187)	X		26 Jan. 2012
	Third Additional Protocol to the European Convention on Extradition (CETS No. 209)	X		26 Jan. 2012
MONTENEGRO	Council of Europe Convention on Access to Official Document (CETS No. 211)	X		23 Jan. 2012
TURKEY	Convention on Contact concerning Children (ETS No. 192)	X		23 Jan. 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 Rise of Anti-Gypsyism and Racist Violence against Roma* in Europe (*Adopted by the Committee of Ministers on 1 February 2012 at the 1132nd meeting of the Ministers' Deputies*)

1. In many countries, Roma are subject to racist violence directed against their persons and property. These attacks have sometimes resulted in serious injuries and deaths. This violence is not a new phenomenon and has been prevalent in Europe for centuries. However, there has been a notable increase of serious incidents in a number of member States, including serious cases of racist violence, stigmatising anti-Roma rhetoric, and generalisations about criminal behaviour.

2. Such incidents have been publicly condemned by, inter alia, the Secretary General of the Council of Europe and his Special Representative for Roma issues, the Commissioner for Human

* The term "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as "Gypsies".

Rights, the Parliamentary Assembly, the Congress of Local and Regional Authorities, the Council of Europe Group of Eminent Persons, the European Commission against Racism and Intolerance (ECRI), as well as various international governmental and non-governmental organisations.

3. The Committee of Ministers recalls the priorities agreed by member States in the Strasbourg Declaration on Roma adopted at the high-level meeting on 20 October 2010 which include ensuring the timely and effective investigation of racially motivated crime and strengthening efforts to combat hate speech and stigmatisation.

4. In its General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma, ECRI recalls that anti-Gypsyism is “a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination.” As such, anti-Gypsyism is one of the most powerful mechanisms of Roma exclusion.

5. The effectiveness of strategies, programmes or action plans aimed at improving the situation and the integration of the Roma, at international, national or local level, can be significantly reinforced by resolute action to combat anti-Gypsyism and action to improve the trust between Roma and the wider community, where appropriate building on ECRI’s guidelines. Such documents should make clear that attitudes among the non-Roma population are a crucial factor that needs to be addressed. Roma integration measures should include both measures targeted at the Roma population (in particular positive measures) and measures targeted at the non Roma population, notably to combat anti-Gypsyism and discrimination.

6. Against this background, the Committee of Ministers of the Council of Europe:

i. expresses its deep concern about the rise of anti-Gypsyism, anti-Roma rhetoric and violent attacks against Roma which are incompatible with standards and values of the Council of Europe and constitute a major obstacle to successful social inclusion of Roma and full respect of their human rights;

ii. draws the attention of governments of member States to ECRI’s General Policy Recommendation No. 13, in particular its paragraph 8 which contains useful guidelines on combating racist violence and crimes against Roma;

iii. calls on governments and public authorities at all levels and the media to refrain from using anti-Roma rhetoric, in particular during electoral campaigns, and to condemn vigorously, swiftly and in public, all acts of racist violence against Roma, including threats and intimidation, as well as hate speech directed against them;

iv. calls on governments and public authorities at all levels to be vigilant not to use Roma as easy targets and scapegoats, in particular in times of economic crisis, and to conduct in a speedy and effective manner the requisite investigations of all crimes committed against Roma and identify any racist motives for such acts, so that the perpetrators do not go unpunished and escalation of ethnic tensions is avoided;

v. welcomes the existing examples of swift reaction from state and local authorities to hate crime and anti-Roma incidents, including legal responses (e.g. amendments of national legislation to protect Roma from harassment and intimidation; prosecution and conviction by national courts of persons committing such crimes, including through the Internet and other media, preventing and condemning extremist organisations inciting or committing such crimes). It stresses the need for effective action to record racist crimes, support victims, and encourage the latter to report such racist incidents;

vi. recognises the interdependence of inclusion and anti-discrimination; therefore, any strategy, programme or policy developed to improve the situation and integration of Roma should include, in addition to measures promoting the social and economic inclusion of Roma in areas such as education, health, employment and housing, measures combating discrimination and addressing anti-Gypsyism, in line with its Recommendation CM/Rec(2008)5 on Policies for Roma and/or Travellers in Europe. Such measures could include research on the phenomenon and awareness-raising activities among the non-Roma population, conducted in co-operation with Roma organisations, with a view to addressing stereotypes and prejudice towards Roma. In this respect, it underlines the role and responsibility of media and journalists. It also recalls that the Council of Europe Dosta! campaign is one of the tools at the disposal of member States and encourages them to use it;

vii. underlines the need for all member States to adopt specific and comprehensive anti-discrimination legislation in line with international and European standards; to set up anti-discrimination bodies equipped to promote equal treatment and to assist victims of discrimination; and to ensure that this legislation is effectively implemented.

Part VI: The parliamentary work

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

NATURE OF THE TEXT	TEXT NUMBER	OBJECT	DATE
Recommendation	1856	Guaranteeing the authority and effectiveness of the European Convention on Human Rights	24 Jan. 2012
Resolution	1991		
Recommendation	1990	The right of everyone to take part in cultural life	24 Jan. 2012
Resolution	1855	The functioning of democratic institutions in Bosnia and Herzegovina	24 Jan. 2012
Resolution	1858	The honouring of obligations and commitments by Serbia	25 Jan. 2012
Recommendation	1993	Protection human rights and dignity by taking into account previously expressed wishes of patients	25 Jan. 2012
Resolution	1859		
Recommendation	1992	The situation in Belarus	25 Jan. 2012
Resolution	1857		
Resolution	1862	The functioning of democratic institutions in Ukraine	26 Jan. 2012
Resolution	1861	Promoting the Council of Europe Convention on preventing and combating violence against women and domestic violence	26 Jan. 2012
Resolution	1860	Advancing women's rights worldwide	26 Jan. 2012

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

➤ *Countries*

Observers on Russian Duma elections: “playing field slanted in favour of United Russia” (23.01.2012)

The playing field for Russia's parliamentary elections was “slanted in favour of United Russia”, according to a report by PACE's election observers made public on 23 of January, and debated by the Assembly. Although the seven political parties running created the possibility of real competition, the denial of registration to certain parties had “narrowed political competition”, the report, presented by Tiny Kox (Netherlands, UEL), concluded ([read more](#)).

Bosnia and Herzegovina: PACE called on the authorities and key political stakeholders to stop obstructionism (24.01.2012)

On the eve of the 10th anniversary of Bosnia and Herzegovina's accession to the Council of Europe, which will be celebrated in April 2012, the PACE, meeting in plenary in Strasbourg, has once again called on the authorities of Bosnia and Herzegovina and the key political stakeholders to "stop obstructionism and work constructively at the level of state institutions". "It is time to move from ethnocracy to democracy," said Karin Woldseth (Norway, EDG) – one of the co-rapporteurs on the subject, with Jean-Claude Mignon (France, EPP/CD) – at the opening of the debate. In its resolution adopted on 24 January, the Assembly regrets, in particular, that more than a year after the elections, no government has yet been formed ([read more](#)).

Ukraine: PACE called for charges against former government members to be dropped (26.01.2012)

PACE has called for charges against former government members in Ukraine, including former Prime Minister Yulia Tymoshenko, to be dropped. It asked the President of Ukraine to consider releasing them and to allow them to compete in the upcoming parliamentary elections. In a resolution approved on 26 January, based on a report by Mailis Reps (Estonia, ALDE) and Marietta de Pourbaix-Lundin (Sweden, EPP/CD), the Assembly also expressed its concern about the deteriorating health of Ms Tymoshenko, and called on the authorities to allow her treatment by independent doctors. The parliamentarians said the articles of Ukraine's criminal code used to bring these cases were "overly broad and effectively allow for post-facto criminalization of normal political decision-making. This runs counter to the rule of law and is unacceptable." ([read more](#) | [read the adopted text](#) | [video interview with the co-rapporteurs](#))

➤ *Themes*

PACE elected its President, Vice-Presidents (23.01.2011) and Chairpersons (27.01.2011)

At the opening of its winter plenary session on 23 January 2012, the PACE elected its [President](#), Mr Jean-Claude Mignon (France, EPP/CD), and its [19 Vice-Presidents](#). PACE committee elected their [Chairpersons](#) on 27 January 2011.

States, not Strasbourg Court, are primarily responsible for protecting human rights in Europe, said PACE (24.01.2012)

The European Court of Human Rights should be "subsidiary" to national authorities – governments, courts and parliaments – who must play the fundamental role in guaranteeing and protecting human rights across Europe, according to PACE. Presenting the report, Klaas de Vries (Netherlands, SOC) pointed out that **70 per cent of pending applications before the Court came from only six countries: Italy, Poland, Romania, Russia, Turkey and Ukraine**. Structural deficiencies in these countries were perpetuating the Court's backlog, he said, and not enough was being done to remedy these deficiencies ([read more](#)).

UK's Cameron makes case for reform of the European Court of Human Rights (25.01.2012)

British Prime Minister David Cameron told the Assembly on 25 January that the 47 countries of the Council of Europe had a "once in a generation" chance to improve the cause of human rights, freedom and dignity. "For the sake of the 800 million people the Court serves, we need to reform it so that it is true to its original purpose," Mr Cameron told the Assembly ([Speech](#) | [Video of the speech](#)).

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

Sustained efforts needed to ensure effective protection of human rights of the persons living in the Transnistrian region (18.01.2012)

The Council of Europe Commissioner for Human Rights Thomas Hammarberg has carried out his first ever visit to the Transnistrian region of the Republic of Moldova. The purpose was to discuss with the de facto authorities, including the new leader Yevgeny Shevchuk, and representatives of the human rights structures, pressing issues affecting the protection of the rights of the people living in the region. On the eve of this visit, the Commissioner also had meetings with the civil society organisations operating there. The Commissioner was informed by the interlocutors in Tiraspol about several important measures they intend to implement with regard to the functioning of the local courts' system, the police and the penitentiary institutions. These measures will include, inter alia, granting in the course of 2012 an amnesty to prisoners serving sentences for less severe crimes; introducing lighter punishment for crimes which pose no threat to life or health of the victims; a wider use of alternatives to imprisonment; a more resolute fight against corruption ([read more](#)).

Discriminatory policies towards elderly people must stop (19.01.2012)

The privatisation of institutional care for older persons in Sweden has recently been marked by scandals. Media have revealed that a business company running a number of such institutions has prioritised profit making and bonuses for top managers over decent care for the residents. Cases of urgent health conditions were mishandled as there were too few nursing personnel. Existing staff were asked to find ways to limit costs even on food, diapers and protective gloves. For instance, they were asked to weigh used diapers to assess whether they were full or could be used again ([read more](#)).

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