

DIRECTORATE OF HUMAN RIGHTS  
(DIRECTORATE GENERAL OF HUMAN RIGHTS AND RULE OF LAW)  
&  
DIRECTORATE OF HUMAN RIGHTS AND ANTI-DISCRIMINATION  
(DIRECTORATE GENERAL OF DEMOCRACY)



Strasbourg, 9 January 2013

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## REGULAR SELECTIVE INFORMATION FLOW (RSIF)

FOR THE ATTENTION OF THE NATIONAL HUMAN RIGHTS STRUCTURES (NHRSS)

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### Issue n° 104

covering the period from 29 November to 12 December 2012

*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 (DG I)*

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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 (DG I) 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 (including Ombudsman Institutions, National Human Rights Commissions and Institutes, Anti-discrimination Bodies). 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 jointly by the Directorate of Human Rights (Directorate General of Human Rights and Rule of Law - DG I) and the Directorate of Human Rights and Anti-Discrimination (Directorate of Democracy - DG II). It is entrusted to Mr Thibaut Fleury, Ph.D, Associate Professor at Versailles University (France).

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

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### A. Judgments

#### 1. Judgments deemed of particular interest to NHRs

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

Some judgments are only available in French.

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

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

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

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

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

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

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

- **Right to life**

**R.R. AND OTHERS V. HUNGARY (No. 19400/11) – Importance 2 – 4 December 2012 – Violation of Article 2 – Unjustified exclusion of a family from an official witness protection programme - Application of Article 46 – Obligation made to domestic authorities to adequately protect mother and children exposed to retribution from criminal circles because of their exclusion from witness protection programme**

The case concerned the exclusion of a family from an official witness protection programme on the ground that the father, in prison, had remained in contact with criminal groups.

#### Article 2

The Court found that the wife and the children had been excluded from the programme without the Government having shown that the risks had ceased to exist and without having taken the necessary measures to protect their lives. The Court concluded that the Hungarian authorities had potentially exposed the wife and the children to life-threatening vengeance from criminal circles.

#### Article 46

The Court considered that in order to redress the effects of the breach of the rights of the applicants, who had been excluded from the witness protection programme without the authorities having ensured that the threat against them had ceased, Hungary should take measures to adequately protect them, including proper cover identities if necessary, equivalent to those provided by the Scheme until it was proven that the threat had stopped.

#### Article 41 (just satisfaction)

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

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

**MICHAUD V. FRANCE ([IN FRENCH ONLY](#)) (No. 12323/11) – Importance 1 – 6 December 2012 – No violation of Article 8 – No interference with lawyers’ professional privilege on account of the obligation made to them to report suspicions in the context of the fight against money laundering**

The case concerned the obligation on French lawyers to report their “suspicions” regarding possible money laundering activities by their clients. Among other things, the applicant submitted that this obligation, which resulted from the transposition of European directives, was in conflict with Article 8 of the Convention, which protects the confidentiality of lawyer-client relations.

The Court held that it was required to rule on this question, since the “presumption of equivalent protection” was not applicable in this case.

The Court stressed the importance of the confidentiality of lawyer-client relations and of legal professional privilege. It considered, however, that the obligation to report suspicions pursued the legitimate aim of prevention of disorder or crime, since it was intended to combat money laundering and related criminal offences, and that it was necessary in pursuit of that aim. On the latter point, it held that the obligation to report suspicions, as implemented in France, did not interfere disproportionately with legal professional privilege, since lawyers were not subject to the above requirement when defending litigants and the legislation had put in place a filter to protect professional privilege, thus ensuring that lawyers did not submit their reports directly to the authorities, but to the president of their Bar association.

- **Prohibition of discrimination**

**SAMPANI AND OTHERS V. GREECE ([IN FRENCH ONLY](#)) (No. 59608/09) – Importance 2 – 11 December 2012 – Violation of Article 14 in conjunction with Article 2 of Protocol No. 1 – Domestic authorities’ failure to integrate Roma children into ordinary education system – Application of Article 46 – Recommendation made to domestic authorities to enrol the applicants in other programs of education**

The case concerned the provision of education for Roma children at a Primary School. The applicants complained that they or their children had been enrolled at a school, which was attended exclusively by children from their own community and provided a lower standard of education than other schools.

Article 14 taken in conjunction with Article 2 of Protocol No. 1

The Court, noting the lack of significant change since the *Sampanis and Others v. Greece* judgment, found that Greece had not taken into account the particular needs of the Roma children of Psari as members of a disadvantaged group and that the operation between 2008 and 2010 of the 12th Primary School in Aspropyrgos, which was attended by Roma pupils only, had amounted to discrimination against the applicants.

Article 46

The Court recommended that those of the applicants who were still of school age be enrolled at another State school and that those who had reached the age of majority be enrolled at “second chance schools” or adult education institutes set up by the Ministry of Education under the Lifelong Learning Programme.

Article 41 (just satisfaction)

The Court held that Greece was to pay the applicants EUR 1,000 to each of the applicant families in respect of non-pecuniary damage and EUR 2,000 to the applicants jointly in respect of costs and expenses

## 2. Other judgments issued in the period under observation

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

STATE	DATE	CASE TITLE	IMP.	CONCLUSION	KEY WORDS
ANDORRA	11 December 2012	<a href="#">BALL</a> (No. 40628/10)	3	No violation of Art. 8	No failure of domestic courts to ensure meaningful contact of the applicant with his children
AZERBAIJAN	11 December 2012	<a href="#">ASADBEYLI AND OTHERS</a> (NOS. 3653/05 AND 5 OTHERS)	2	Violation of Art. 6 § 1 taken together with Art. 6 § 3 (b), (c), and (d)	Unfairness of proceedings
				Violation of Art. 4 of Prot. No. 7 in respect of one applicant	Prosecution of one of the applicant in two separate sets of proceedings (administrative and criminal) for his involvement in a demonstration
AUSTRIA	4 December 2012	<a href="#">KUCHL</a> (No. 51151/06) <a href="#">ROTHE</a> (No. 6490/07) <a href="#">VERLAGSGRUPPE NEWS GMBH AND BOBI</a> (No. 59631/09)	3	No violation of Art. 8 in the two first cases	Domestic courts' justified refusal to compensate the applicants for the publication of an article including photos stating that the applicants had had sexual relations with seminarians
				Violation of Art. 10 in the third case	Unjustified injunction made to the applicant not to publish pictures of the first two cases' applicants
BULGARIA	4 December 2012	<a href="#">FILIPOVI</a> (No. 24867/04)	3	Violation of Art. 2	Killing of the applicants' relative by a police officer and lack of an effective investigation in that respect
				Violation of Art. 3	Torture by police and lack of an effective investigation in that respect
				Violation of Art. 8	Secret record of the applicant while in custody
				Violation of Art. 13	Lack of an effective remedy in respect of the violations of Articles 3 and 8
	11 December 2012	<a href="#">LENEV</a> (No. 41452/07)	2	No violation of Articles 34 and 38 § 1	No failure of domestic authorities to provide the applicant with the necessary document to fill his case before the Court
3				No violation of Art. 10	Applicant's failure to establish that her dismissal was intended to stifle her freedom of expression
		<a href="#">NENKOVA-LALOVA</a> (No. 35745/05)		Violation of Art. 6 § 1	Excessive length of proceedings (six years and almost one month)

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

CROATIA	11 December 2012	<a href="#">REMETIN</a> (No. 29525/10)	3	Violation of Art. 8	Domestic authorities' failure to carry out an effective investigation into his complaint that, when he was 13, following an argument with another boy over a ball in a school playground, he had been physically attacked by the father of the boy
		<a href="#">TARBUK</a> (No. 31360/10)	2	No violation of Art. 6 § 1	No unfairness of proceedings because of a legislative intervention before the first-instance judgment in the applicant's case
GEORGIA	11 December 2012	<a href="#">MINDADZE</a> (No. 17012/09)	3	Violation of Art. 3	Inadequate medical care in detention
GREECE	4 December 2012	NIECIECKI ( <a href="#">IN FRENCH ONLY</a> ) (No. 11677/11)	3	Violation of Art. 3	Poor conditions of detention
		TZAMALIS AND OTHERS ( <a href="#">IN FRENCH ONLY</a> ) (No. 15894/09)			
ITALY	4 December 2012	HAMIDOVIC ( <a href="#">IN FRENCH ONLY</a> ) (No. 31956/05)	3	Violation of Art. 8	Deportation of the applicant to Bosnia and Herzegovina on the ground that she had committed criminal offences
	11 December 2012	ANNA DE ROSA AND OTHERS ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 52888/08 AND 13 OTHERS)	3	Violation of Art. 6 § 1	Legislative measure enacted in the course of the civil proceedings brought against the applicant
LATVIA	4 December 2012	<a href="#">PETRIKS</a> (No. 19619/03)	3	Violation of Art. 3	Poor conditions of detention
	11 December 2012	<a href="#">TIMOFEJEVI</a> (No. 45393/04)	3	Violation of Art. 3	Lack of an effective investigation into allegation of excessive use of force during the applicants' arrest
		<a href="#">VOVRUSKO</a> (No. 11065/02)	3	Violation of Art. 3	Lack of an effective investigation into allegation of ill-treatment in police custody
LITHUANIA	11 December 2012	<a href="#">VENSKUTE</a> (No. 10645/08)	2	Violation of Art. 5 § 1	Unrecorded detention
				Violation of Art. 5 § 5	Unjustified dismissal of the applicant's claim for unlawful detention
MOLDOVA	4 December 2012	CIORAP (No. 3) ( <a href="#">IN PDF FORMAT ONLY</a> ) (No. 32896/07)	3	Violation of Art. 3	Poor conditions of detention

<b>MOLDOVA</b> (CONTINUED)	4 December 2012 (continued)	<a href="#">STRUC</a> (No. 40131/09)	3	Violation of Art. 3	Ill-treatment by police during pre-trial detention; lack of an effective investigation in that respect				
				No violation of Art. 3	Adequate medical care in detention				
				No violation of Art. 6 § 1	Reasonable length of proceedings (four years)				
				No violation of Art. 13	Effective remedy in respect of those alleged violations				
<b>NORWAY</b>	4 December 2012	<a href="#">BUTT</a> (No. 47017/09)	3	Violation of Art. 8	Deportation of the applicants to Pakistan would break the strong ties they have with Norway where they have lived since they were young children				
<b>ROMANIA</b>	4 December 2012	<a href="#">LEONTIUC</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 44302/10)	3	Violation of Art. 3	Poor conditions of detention				
				Violation of Art. 5 § 3	Excessive length of pre-trial detention (almost three years)				
	11 December 2012	<a href="#">PETRUS IACOB</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 13524/05)	3	Violation of Art. 3	Ill-treatment by police officers during an inspection and lack of an effective investigation in that respect				
				<a href="#">BANU</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 60732/09)	3	Violation of Art. 3	Poor conditions of detention		
						<a href="#">CONSTANTINESCU</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 32563/04)	3	Violation of Art. 10	Unjustified criminal conviction of the applicant for the publication of a book on her father's life
								<a href="#">IONESCU</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 15318/09)	3
<b>RUSSIA</b>	4 December 2012	<a href="#">MITYAGIN</a> (No. 20325/06)	3	No violation of Art. 3	Lack of credible evidence to prove that the persons who had assaulted the applicants had been policemen				
				Violation of Art. 3	Lack of an effective investigation into allegations of ill-treatment				
	11 December 2012	<a href="#">SVINARENKO AND SLYADNEV</a> (Nos. 32541/08 AND 43441/08)	3	Violation of Art. 3	Humiliating treatment of the applicant, who had been obliged to appear in court in a metal cage				
				Violation of Art. 6 § 1	Excessive length of criminal proceedings (more than six years and ten months)				



RUSSIA (CONTINUED)	11 December 2012 (continued)	<a href="#">TANGIYEV</a> (No. 27610/05)	3	Violation of Art. 3	Torture of the applicant during his arrest and lack of an effective investigation in that respect
				Violation of Art. 6 § 1	Unfairness of proceedings
				No violation of Art. 34	Not enough evidence to conclude that any undue pressure or form of coercion was put on the applicant or his family in the course of the proceedings before the Court
SWEDEN	6 December 2012	<a href="#">D.N.W.</a> (No. 29946/10)	3	No violation of Articles 2 or 3	No risk of torture or of inhuman or degrading treatment in case of the applicant's deportation to Ethiopia
SWITZERLAND	6 December 2012	<a href="#">PESUKIC</a> (No. 25088/07)	3	No violation of Art. 6 § 1 taken together with Art. 6 § 3 (d)	Fairness of proceedings, which had not been based to a decisive degree on the testimony given by an anonymous witness
TURKEY	4 December 2012	<a href="#">OZMEN</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 28110/08)	2	Violation of Art. 8	Domestic authorities' failure to take all the necessary steps to recover the applicant's daughter and ensure her return to Australia after her mother travelled to Turkey with her and never came back
	<a href="#">HALIL YUKSEL AKINCI</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 39125/04)	3	Violation of Art. 2	Death of the applicants' relative in the course of obligatory military service	
				No violation of Art. 2	Effective investigation into the allegation of violation of Art. 2

### 3. Repetitive cases

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

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

STATE	DATE	CASE TITLE	CONCLUSION	KEY WORDS
BULGARIA	11 December 2012	<a href="#">IVANOV</a> (No. 19988/06)	Violation of Articles 13 and 1 of Prot. No. 1	Domestic authorities' failure to issue a plan of the applicant's property; lack of an effective remedy in that respect
MONTENEGRO AND SERBIA	11 December 2012	<a href="#">MILIC</a> (No. 28359/05)	Violation of Articles 6 § 1 and 13 in respect of Montenegro	Non-enforcement of judgment issued in the applicants' favour

POLAND	4 December 2012	<a href="#">FRACZEK-POTEGA</a> (No. 39430/04)	Violation of Art. 1 of Prot. No. 1	Just satisfaction (EUR 12,750,000 jointly for pecuniary damage, EUR 20,000 jointly for non-pecuniary damage and EUR 20,000 jointly for costs and expenses)
		<a href="#">FRANCISZEK DABROWSKI</a> (No. 31803/04)		
		<a href="#">KRZYZEK</a> (No. 11815/05)		
		<a href="#">LEW</a> (No. 34386/04)		
		<a href="#">MIGALSKA</a> (No. 10368/05)		
		<a href="#">MISIELAK</a> (No. 35538/04)		
		<a href="#">POTOK</a> (No. 18683/04)		
		<a href="#">SASOR</a> (No. 6112/05)		
		<a href="#">SZEWC</a> (No. 31492/05)		
		<a href="#">STEPIEN</a> (No. 39225/05)		
		<a href="#">SWIATEK</a> (No. 8578/04)		
<a href="#">ZOFIA SIKORA</a> (No. 27680/04)				

#### 4. Length of proceedings cases

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

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

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

STATE	DATE	CASE TITLE
AUSTRIA	11 December 2012	<a href="#">GASSNER</a> (No. 38314/06)
BULGARIA	4 December 2012	<a href="#">DIMITROVI</a> (No. 7443/06)
PORTUGAL	4 December 2012	GOMES DARA <a href="#">(IN FRENCH ONLY)</a> (No. 68415/10)
		GONCALVES AND NEVES DIAS <a href="#">(IN FRENCH ONLY)</a> (No. 52692/10)
		SILVA LOPES MOTA <a href="#">(IN FRENCH ONLY)</a> (No. 72506/10)

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

The decisions listed below cover **the period from 28 November to 12 December 2012**. They are aimed at providing the NHRs with potentially useful information on the reasons of the inadmissibility of certain applications addressed to the Court and/or on the friendly settlements reached.

STATE	DATE	CASE TITLE	ALLEGED VIOLATIONS (KEY WORDS)	DECISION
BULGARIA	4 December 2012	<a href="#">RUSEV AND STOYANOVA</a> (Nos. 21757/08 AND 27872/08)	Articles 6 § 1 and 13 (excessive length of proceedings, lack of effective remedies in that respect)	Struck out of the list (unilateral declaration of the Government)
CROATIA	11 December 2012	<a href="#">TOPOLOVCAN</a> (No. 67405/10)	Articles 6 § 1 and 1 of Prot. 1 (dismissal as lodged out of time of the applicant's claim for costs and expenses incurred in criminal proceedings against her, contrary to the established practice of domestic courts)	Inadmissible as manifestly ill-founded
FINLAND	4 December 2012	<a href="#">K.</a> (No. 65550/10)	Art. 8 (taking into public care of the applicant's son)	Struck out of the list (friendly settlement reached)
		<a href="#">KAIKKO</a> (No. 49865/09)	Articles 6, 14, 17 and 1 of Prot. 12 (difference in treatment in financial terms of men and women who entered into the service of the Bank of Finland before 3 May 1977)	Struck out of the list (friendly settlement reached)
		<a href="#">KARKKAINEN</a> (No. 49872/09)		Inadmissible for non-exhaustion of domestic remedies Idem.
		<a href="#">PUTTONEN</a> (No. 49894/09)		
GEORGIA	11 December 2012	<a href="#">OKROSHIDZE</a> (No. 60596/09)	Articles 8, 13, 14, 1 of Prot. 1 and 1 of Prot. 12 (domestic courts' refusal to accept DNA results as the ground for the establishment of civil paternity and thus to provide for child maintenance payments)	Struck out of the list (friendly settlement reached)
GERMANY	11 December 2012	<a href="#">AHMAD AND OTHERS</a> (No. 52390/09)	Articles 8, 14, 1 of Prot. 7 and 4 of Prot. 4 (Domestic courts' wrong establishment that the applicants intentionally protracted removal proceedings)	Struck out of the list (the applicants no longer wished to pursue the application)
		<a href="#">KOPPIKAR</a> (No. 11858/10)	Articles 6 and 8 in conjunction with Art. 14 (exclusion of the applicant from proceedings on the determination of a child's paternity)	Inadmissible as manifestly ill-founded
LATVIA	4 December 2012	<a href="#">IVANOVAS</a> (No. 25769/02)	Articles 5 §§ 3 and 5, and 6 § 1 (excessive length of pre-trial detention and lack of an enforceable right to compensation in that regard, excessive length of proceedings)	Partly struck out of the list (unilateral declaration of the government concerning claim under Art. 5), partly inadmissible as manifestly ill-founded concerning the remainder of the application)
	11 December 2012	<a href="#">AMIRS</a> (No. 9175/06)	In particular, Art. 2 (excessive use of force during the applicant's arrest)	Inadmissible as manifestly ill-founded

POLAND	4 December 2012	<a href="#">NOWACKI</a> (No. 33038/08)	In particular, refusal to grant the applicant legal assistance, ill-treatment during arrest	Partly struck out of the list (unilateral declaration of the Government concerning the refusal to grant legal aid), partly inadmissible as manifestly ill-founded (concerning ill-treatment)
	11 December 2012	<a href="#">CIESIELSKI</a> (No. 76536/11)	Art. 3 (poor conditions of detention)	Struck out of the list (friendly settlement reached)
		<a href="#">JABLONSKI</a> (No. 4242/11)	Art. 3 (poor conditions of detention)	
		<a href="#">KACZOROWSKI</a> (No. 14247/12)	Art. 3 (poor conditions of detention)	
		<a href="#">KISIL</a> (No. 44002/09)	Art. 6 (lack of access to court)	
		<a href="#">LUZAROWSKI</a> (No. 19174/09)	Art. 6 § 1 (refusal to grant legal aid to the applicant)	Inadmissible as manifestly ill-founded
		<a href="#">MARMUZEWICZ</a> (No. 24759/10)	Art. 6 § 1 (excessive length of proceedings)	
		<a href="#">NIKOLSKI</a> (No. 15991/08)	Art. 6 § 1 (excessive length of criminal investigation)	
<a href="#">SWIERCZ</a> (No. 72189/11)	Art. 3 (poor conditions of detention)	Struck out of the list (friendly settlement reached)		
ROMANIA	11 December 2012	<a href="#">AVRAM</a> (No. 32623/06)	Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
		<a href="#">DUMITRESCU AND ENESCU</a> (No. 61503/08)	In particular, Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (unilateral declaration of the Government)
		<a href="#">POPESCU AND PETA</a> (Nos. 34745/04 AND 30521/08)	Art. 1 of Prot. 1 (applicants' prolonged inability to use property)	Struck out of the list (friendly settlement reached)
RUSSIA	11 December 2012	<a href="#">MAGOMADOVA AND OTHERS</a> (No. 3526/04)	In particular, Articles 2, 8 and 1 of Prot. 1 (domestic authorities' failure to protect the applicants' right to life and to safeguard their home and family life during counterterrorist operations in 1995 and 1999)	Partly incompatible <i>ratione temporis</i> with the provisions of the Convention (concerning complaint for events dating back to 1995), partly inadmissible as manifestly ill-founded (concerning complaint for events dating back to 1999)
SLOVAKIA	4 December 2012	<a href="#">PREMK</a> (No. 45891/06)	Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy in that respect)	Inadmissible as manifestly ill-founded
	11 December 2012	<a href="#">KARSAY</a> (No. 17996/11)	Art. 6 § 1 (excessive length of civil proceedings)	Struck out of the list (friendly settlement reached)
SLOVENIA	4 December 2012	<a href="#">BOSICH</a> (No. 39380/10)	Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy in that respect)	Inadmissible as manifestly ill-founded
		<a href="#">DURICIC</a> (No. 2127/08)	Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy in that respect)	Inadmissible for non-exhaustion of domestic remedies
		<a href="#">HOFMAN</a> (No. 1892/07)	Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy in that respect)	Inadmissible as manifestly ill-founded

<b>SLOVENIA</b> (CONTINUED)	4 December 2012 (continued)	<a href="#">MIHALIC</a> (No. 24344/06)	Articles 6 and 13 (excessive length of proceedings and lack of an effective remedy in that respect)	Struck out of the list (the applicant no longer wished to pursue the application)
<b>SWEDEN</b>	4 December 2012	<a href="#">LONN</a> (No. 49801/08)	Articles 6, 14 and 1 of Prot. 1 (gender-based discrimination as a result of a domestic provision, which stipulated that a child allowance must be paid in full to the mother in the case of separated parents with joint custody, unless the mother consented to a different distribution)	Struck out of the list (friendly settlement reached)
<b>THE CZECH REPUBLIC</b>	11 December 2012	<a href="#">WIMETAL</a> (Nos. 49427/08 AND 4 OTHERS)	Articles 1 of Prot. 1, 14, 6 and 13 (deprivation of property, lack of an effective remedy in that respect)	Struck out of the list (it is no longer justified to pursue the examination of the application)
<b>THE NETHERLANDS</b>	4 December 2012	<a href="#">ABDI MOHAMMED</a> (No. 2738/11)	Art. 3 (risk of ill-treatment in case of expulsion to Mogadishu)	Struck out of the list (it is no longer justified to pursue the examination of the application)
		<a href="#">A.K.</a> (Nos. 50925/10 AND 11 OTHERS)	In particular, Art. 3 (risk of ill-treatment in case of expulsion to Iraq)	
		<a href="#">JEUNESSE</a> (No. 12738/10)	Articles 8, 13 and 14 (obligation imposed on the applicant to hold a provisional residence visa), Articles 3 and 13 (decision to order the applicant's placement in aliens' detention, and poor condition of detention), Art. 5 (unlawfulness of placement in alien's detention)	Inadmissible as manifestly ill-founded
		<a href="#">MAHAMED AHMED</a> (No. 70517/11)	Art. 1 (refusal of the applicant's request for protection), Articles 2 and 3 (risk for the applicant's life in case of expulsion to Somalia), Art. 5 (applicant's obligation to live his life in hiding if expelled to Somalia)	Struck out of the list (it is no longer justified to pursue the examination of the application)
	<a href="#">MUHAMMED JEMEAL</a> (No. 18375/10)	Art. 3 (risk of ill-treatment in case of expulsion to Iraq)		
	11 December 2012	<a href="#">SALLAM</a> (No. 20328/08)	Art. 6 § 1 (excessive length of proceedings)	Incompatible <i>ratione personae</i> with the provisions of the Convention
<b>THE UNITED KINGDOM</b>	4 December 2012	<a href="#">A.H.M.</a> (No. 67792/10)	Articles 2, 3, 8 (risk for the applicant's life and family life in case of removal to Afghanistan)	Struck out of the list (friendly settlement reached)
		<a href="#">ALI</a> (No. 18815/11)	Articles 3 and 8 (risk for the applicant's life and family life in case of deportation to Pakistan)	
		<a href="#">CHAGOS ISLANDERS</a> (No. 35622/04)	In particular, Art. 6 (unfairness of proceedings)	Inadmissible as manifestly ill-founded
		<a href="#">NCUBE</a> (No. 4428/12)	Art. 8 (removal to Zimbabwe)	Struck out of the list (friendly settlement reached)
<b>TURKEY</b>	4 December 2012	<a href="#">ARSLAN AND ARAS</a> (No. 584/06)	Art. 3 (ill-treatment during arrest)	Inadmissible as manifestly ill-founded
		<a href="#">CANPOLAT</a> (No. 27382/07)	Art. 2 (killing of the applicants' relative in police custody, lack of an effective investigation in that respect), Art. 3 (ill-treatment in police custody), Art. 13 (lack of an effective remedy in respect of alleged violation of Art. 2)	Struck out of the list (friendly settlement reached)

TURKEY (CONTINUED)	4 December 2012 (continued)	<a href="#">ERKUS</a> (No. 61196/11)	Art. 3 (ill-treatment on account of the fact that the applicant's head of department had been convicted of plagiarising), Articles 1, 6 and 7 (applicant's inability to appeal to the Court of Cassation)	Inadmissible as manifestly ill-founded
		<a href="#">TALU</a> (No. 2118/10)	Art. 5 § 1 (unjustified pre-trial detention), Art. 5 § 3 (unjustified continued pre-trial detention), Art. 5 § 4 (lack of effective judicial review of the lawfulness of the applicant's detention), Art. 6 (unfairness of proceedings)	Partly inadmissible as manifestly ill-founded (concerning claims under Art. 5 §§ 1, 3 and 4), partly adjourned (concerning claim under Art. 5 § 5), partly incompatible <i>ratione personae</i> with the provisions of the Convention (concerning claim under Art. 6)
UKRAINE	4 December 2012	<a href="#">KOLESNIK</a> (NOS. 41975/11 AND 6 OTHERS)	Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (friendly settlement reached)
		<a href="#">MAKHNO</a> (No. 20997/11)	Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (unilateral declaration of the Government)
		<a href="#">SHTURMINA</a> (No. 33747/07)	Articles 6 § 1 and 14 (domestic courts' failure to address the issue of equality of parents in their obligation to support minor children)	Inadmissible as manifestly ill-founded
		<a href="#">TARAN</a> (No. 8662.06)	Articles 3 and 13 (ill-treatment by police and lack of an effective investigation)	Struck out of the list (friendly settlement reached)
	11 December 2012	<a href="#">DEMCHUK</a> (No. 11612/06)	Articles 3, 5, 6, 7, 10, 11, 13, 14 and 1 of Prot. 1 (police ill-treatment and ineffective investigation into it, lack of medical assistance in detention, unlawful arrest and unfairness of administrative proceedings)	Struck out of the list (the applicant no longer wished to pursue the application)
		<a href="#">KISLYAK</a> (No. 44977/09)	Art. 6 § 1 (unfairness of proceedings)	Inadmissible as manifestly ill-founded
		<a href="#">LAZARENKO AND OTHERS</a> (No. 27427/02)	Articles 8 and 1 of Prot. 1 (seizure of the applicants' flat and denial of access to the applicants' belongings), Art. 13 (lack of an effective remedy in respect of these complaints), Articles 6 and 14 (unfairness and excessive length of proceedings)	Partly inadmissible as manifestly ill-founded (concerning the seizure of the applicants' flat and claims under Articles 6, 13 and 14), partly inadmissible for non-exhaustion of domestic remedies (concerning the denial of access to the applicants' belongings)
		<a href="#">MALITSKA</a> (No. 22826/11)	Articles 2, 6 and 13 (excessive length and ineffectiveness of investigation into the death of the applicant's son)	Struck out of the list (friendly settlement reached)
		<a href="#">SHARKOZI</a> (No. 28831/06)	Articles 6 § 1 and 13 (unreasonable length of proceedings, unfairness of proceedings)	Struck out of the list (unilateral declaration of the Government)

UKRAINE (CONTINUED)	11 December 2012 (continued)	<a href="#">TYULYAKOVA</a> (No. 6136/09)	In particular, Articles 2, 6 § 1 and 13 (ineffectiveness of lengthy investigation into the applicant's son death and excessive length of the proceedings concerning the related civil claim for damages)	Struck out of the list (friendly settlement reached)
		<a href="#">YERILOV</a> (No. 43478/07)	Art. 6 § 1 (excessive length of proceedings)	Struck out of the list (unilateral declaration of the Government)
		<a href="#">ZHELEZNOVA</a> (No. 21424/06)	Articles 6 § 1 and 13 (excessive length of proceedings and lack of an effective remedy in that respect)	Struck out of the list (friendly settlement reached)

### 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.

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

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

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
CROATIA	29 November 2012	<a href="#">GUSTOVARAC AND GUSTOVARAC</a> (No. 60223/09)	Art. 8 – Violation of the applicants' right to respect for their home
GERMANY	29 November 2012	M.L. AND W.W. ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 60798/10 AND 65599/10)	Art. 8 – Domestic court's refusal to prohibit access on the internet to the criminal files of the applicants
HUNGARY	29 November 2012	<a href="#">BAKA</a> (No. 20261/12)	In particular, Art. 6 § 1 – Denial of access to a tribunal for the applicant to defend his rights relating to his premature dismissal; Art. 10 – Dismissal in connection with the applicant's views and public positions; Art. 1 of Prot. 1 – Deprivation of the applicant's peaceful enjoyment of his possession on account of his dismissal.
MOLDOVA	30 November 2012	NACAI ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 47294/07 AND 4 OTHERS)	Art. 3 – Poor conditions of detention; Art. 13 – Lack of an effective remedy in that respect; Art. 5 § 1 – Unlawfulness of pre-trial detention
POLAND	30 November 2012	PRZYDZIAL ( <a href="#">IN FRENCH ONLY</a> ) (No. 15487/08)	Art. 6 § 3 (c) and (d) – Unfairness of proceedings
SERBIA	29 November 2012	<a href="#">MATIC AND POLONIA DOO</a> (No. 23001/08)	Articles 6 §§ 1, 3 (d) and 14 and 1 of Prot. No. 1 – Applicants' inability to question a certain witness at first instance; unfairness and arbitrary outcome of proceedings; adjudication of their case in a manner wholly inconsistent with the settled administrative/judicial practice at the relevant time

SLOVAKIA	29 November 2012	<a href="#">AKHADOV</a> (No. 43009/10)	Art. 5 § 4 – Excessive length of review of the lawfulness of the applicant's detention
		<a href="#">PODHAJECKY</a> (No. 25337/10)	Art. 6 § 1 – Unfairness of proceedings
		<a href="#">SCHVARC</a> (No. 64528/09)	Art. 5 § 4 – Lack of speedy review of the lawfulness of the applicant's detention
	30 November 2012	<a href="#">BUZINGER</a> (No. 32133/10)	Articles 6 § 1 and 13 – Domestic authorities' failure to proceed with the applicant's case in an appropriate manner; applicant's inability to obtain redress before the Constitutional Court
TURKEY	29 November 2012	<a href="#">ATESOGLU</a> (No. 53645/10)	Articles 3, 6 and 13 – Ill-treatment in police custody, lack of an effective investigation, and lack of an effective remedy; Art. 5 §§ 1, 2 and 3 – Further complaint about the applicant's police custody (no more details); Art. 7 § 2 – Domestic court's failure to convict the police officers on a new legislative basis
		<a href="#">GUZELAYDIN</a> (No. 26470/10)	Articles 6 and 13 – Domestic authorities' failure to carry out an effective investigation into the circumstances surrounding the applicants' son's death

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

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



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

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### **Decisions on execution of European Court of Human Rights judgments**

The Committee of Ministers of the Council of Europe published the [decisions and resolutions](#) adopted at its third special human rights meeting for 2012 (24-26 September 2012).

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## Part III: General Agenda

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The “General Agenda” presents events that either took place or were announced\* during the period under observation (29 November to 12 December 2012) for this RSIF.

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### November 2012

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- 28 November:
  - Day of protest against gender-based violence (Valencia, Spain) ([Programme](#))
- 29 November:
  - Round Table on the right to housing (Strasbourg, France) ([Programme](#))

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\* These are subsequently due to take place.

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

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### A. European Social Charter (ESC)

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

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

#### CPT published report on Bulgaria (04.12.2012)

The CPT published on 4 December 2012 the report on its visit to Bulgaria in May 2012, and the response of the Bulgarian authorities. During the visit, the CPT's delegation reviewed the treatment and conditions of detention of inmates in Burgas and Varna Prisons ([Read more](#) – [Read the report](#) – [Read the response of the Bulgarian authorities](#)).

#### CPT visited the Principality of Monaco (06.12.2012)

A CPT's delegation carried out a four-day visit to the Principality of Monaco. The visit, which began on 27 November, was the CPT's second to the Principality. This visit provided an opportunity to assess the practical implementation of the recommendations made by the CPT after its first visit in 2006. Particular attention was paid to the treatment of persons detained in the cells of the Central Directorate of Public Security, persons held in the remand prison, or those placed by administrative decision or court order in the Department of Psychiatry of the Princess Grace Hospital (CHPG) ([Read more](#)).

#### CPT published report on Cyprus (06.12.2012)

The CPT published on 6 December 2012 the report on its period visit to Cyprus in May 2008, together with response of the Government of Cyprus ([Read more](#) – [Read the report](#) – [Read the response of the Government of Cyprus](#)).

#### CPT visited Lithuania (07.12.2012)

A CPT's delegation carried out a periodic visit to Lithuania from 27 November to 4 December 2012. Particular attention was paid to the treatment of persons detained by the police and the conditions of detention in police arrest houses. The treatment and regime of prisoners, including life-sentenced prisoners, were also examined during the visit. In addition, a follow-up visit to Kaunas Juvenile Remand Prison was carried out to review the measures taken to implement recommendations made after previous visits to the establishment ([Read more](#)).

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

#### Statement by ECRI concerning racist and xenophobic political activities in Greece (10.12.2012)

ECRI wished to express its deep concern about the rise and activities, in Greece, of Golden Dawn, a neo-Nazi, racist and xenophobic political party, which is represented in the Hellenic Parliament. This party openly uses virulent nationalist and anti-immigration rhetoric, drawing on the vulnerability of the Greek public during a time of extreme economic crisis in the country ([Read more](#)).

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

#### Kosovo: visit of the FCNM Advisory Committee (04.12.2012)

This visit took place between 3-7 December 2012 to evaluate the progress made in protecting the rights of non-majority communities in Kosovo (all reference to Kosovo, whether to the territory,

institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo) ([Read more](#)).

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

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

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

*[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]*

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## Part V: The inter-governmental work

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

COUNTRY	CONVENTION	RATIF.	SIGN.	DATE
GUATEMALA	Convention on Mutual Administrative Assistance in Tax Matters as amended by its 2010 Protocol ( <a href="#">ETS No. 127</a> )		X	5 December 2012
POLAND	European Agreement relating to persons participating in proceedings of the European Court of Human Rights ( <a href="#">ETS No. 161</a> )	X		6 December 2012

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

NATURE OF THE TEXT	TEXT NUMBER	OBJECT	DATE
RECOMMENDATION	<a href="#">CM/Rec(2012)13</a>	Ensuring quality education	12 December 2012

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

#### International Human Rights Day: Joint statement by the Chairman of the Committee of Ministers and the President of the Parliamentary Assembly of the Council of Europe (10.12.2012)

Gilbert Saboya Sunyé, Foreign Minister of the Principality of Andorra and Chairman of the Committee of Ministers, and Jean-Claude Mignon, President of the Parliamentary Assembly, issued the following statement on the occasion of International Human Rights Day, on 10 December: "The Council of Europe works on a daily basis to protect human rights throughout Europe. Over the years, the Council has recorded many successes, first and foremost of which is the European Convention on Human Rights and its control mechanism. The European Court of Human Rights offers victims of human rights violations the assurance that they will be heard and that the Council of Europe will do its utmost to remedy and put an end to such violations. These successes should not, however, let us forget that much still remains to be done and that this is a task which will need to be continued for generation to come" ([Read more](#)).

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## Part VI: The parliamentary work

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

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

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

*[The PACE's news webpage was unavailable during the making of this RSIF. Please check <http://assembly.coe.int> regularly for updates]*

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

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### ➤ *Countries*

#### **Spain: Commissioner concerned about the pardon of police officers condemned for torture (03.12.2012)**

In an interview with the Spanish news agency EFE, the Commissioner expressed his concerns about the decision of the Spanish Government to pardon 5 police officers who were condemned in 2008 for a case of torture. Stressing that torture and other forms of ill-treatment are serious violations of human rights which should never be pardoned, the Commissioner said that the authorities should never be lenient to such offences, especially when committed by law enforcement agents. ([Read more](#)).

#### **Effective measures needed to eradicate ill-treatment and torture in Georgia (04.12.2012)**

“The Georgian authorities should address long-standing concerns about ill-treatment of prisoners and other detained persons by public officials and take effective steps to repair the system of accountability. Constant vigilance is necessary to ensure the effectiveness of the absolute prohibition of torture. I intend to focus on these issues in my dialogue with the authorities, including during my next visit to Georgia” said the Council of Europe Commissioner for Human Rights, Nils Muižnieks, on today’s publication of his letter addressed to the Prime Minister of Georgia, Mr Bidzina Ivanishvili. ([Read more](#)).

#### **Improvements needed in human rights protection in Ireland (06.12.2012)**

“Several changes in the system for human rights protection are planned or under way in Ireland. The authorities should use this opportunity to strengthen this system and make it more compliant with international standards” said Nils Muižnieks, Council of Europe Commissioner for Human Rights, publishing on 6 December 2012 three letters addressed to the Ministers for Justice, Social Protection and of State. ([Read more](#)).

### ➤ *Themes*

#### **Human rights of Roma and social cohesion should be strengthened (29.11.2012)**

“The authorities of “the former Yugoslav Republic of Macedonia” should address more vigorously the factors which continue to undermine social cohesion in this multiethnic country. Targeted initiatives should be developed to build trust and promote social interaction between the communities, as well as to combat discrimination and end social exclusion, in particular of Roma,” said Nils Muižnieks, Council of Europe Commissioner for Human Rights, at the end of a four-day visit to the country ([Read more](#)).

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

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





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