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

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

We invite you to read the [INFORMATION NOTE No. 146](#) (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 November 2011 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 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.

- **Grand Chamber judgments**

**[Al-Khawaja and Tahery v. the United Kingdom](#) (link to the judgment in French) (nos. 26766/05 and 22228/06) (Importance 1) – 15 December 2011 – No violation of Article 6 § 1 in conjunction with Article 6 § 3 (d) – Domestic courts' decision to convict the applicant on the statement of an absent witness does not automatically result in a breach of Article 6 § 1 (first applicant) – Violation of Article 6 § 1 read in conjunction with Article 6 § 3 (d) – Domestic courts' failure to cross examine statements from witnesses (second applicant)**

The first applicant was charged on two counts of indecent assault on two female patients. At the trial, it was decided that one of the complainant's statement should be read to the jury, even though she died just before the hearings. The jury also heard evidence from a number of different witnesses, including the other complainant and two of the deceased complainant's friends. As to the second applicant, he was charged, after a gang fight occurred, with wounding with intent and attempting to pervert the course of justice by telling the police that he had seen two black men carry out the stabbing. When witnesses were questioned at the scene, no-one claimed to have seen the applicant stab the victim. Two days later however one of the witnesses made a statement to the police that he had seen the applicant stab the victim. Because the witness was too frightened to appear in court, his statement was read to the jury in his absence.

The applicants complained that their convictions had been based to a decisive degree on statements from witnesses who could not be cross examined in court and that they had therefore been denied a fair trial.

The Court considered three issues in each case: first, whether it had been necessary to admit the witness statements; second, whether their untested evidence had been the sole or decisive basis for each applicant's conviction; and third, whether there had been sufficient counterbalancing factors including strong procedural safeguards to ensure that each trial had been fair. Concerning the first applicant's claim, the Court held that, notwithstanding the dangers of admitting the statement as evidence and the difficulties caused to the defence, there had been sufficient counterbalancing factors (such as hearings of different witnesses and of the deceased witness's friends) to conclude that there had been no breach of Article 6 § 1 in conjunction with Article 6 § 3 (d). Concerning the second applicant's claim, the Court concluded that there had not been sufficient counterbalancing factors to compensate for the difficulties caused to the defence by the admission of hearsay evidence and held unanimously that there had been a violation of Article 6 § 1 in conjunction with Article 6 § 3 (d).

#### Article 41 (just satisfaction)

The Court held that the United Kingdom was to pay the second applicant EUR 6,000 in respect of non-pecuniary damage, and EUR 12,000 for costs and expenses. Judge Bratza expressed a concurring opinion and Judges Sajo and Karakash expressed a joint partly dissenting and partly concurring opinion.

- **Right to life**

**De Donder and De Clippel v. Belgium (no. 8595/06) (Importance 2) – 6 December 2011 – Violation of Article 2 (substantive) – Domestic authorities' failure to prevent a mentally disturbed detainee from committing suicide – No violation of Article 2 (procedural) – Adequate investigation into the applicants' son's death – Violation of Article 5 § 1 – Deprivation of liberty in violation with domestic law requirements regarding mentally disturbed persons**

The applicants are the parents of a man who committed suicide in Ghent Prison in August 2001. They complained that their son's detention in Ghent Prison and his placement in segregation amounted to inhuman or degrading treatment. They further maintained that in such circumstances it had been foreseeable that he would lose his self-control and attempt to kill himself. The applicants also complained that their son's detention in Ghent Prison and his placement in segregation were incompatible with the guarantees of Article 5.

#### Articles 2 and 3

The Court examined whether the authorities had known or ought to have known that the applicants' son posed a real and immediate risk of suicide while being held in an ordinary prison environment in Ghent Prison. The Court considered that there had been such a risk: his mental disorder had been known to the authorities at the time of the decision to admit him to Ghent Prison, and other factors should have aroused the authorities' attention: during a stay at a psychiatric hospital, he had behaved aggressively towards the staff, had stopped taking his medication and had been using narcotics. It follows that the applicants' son should never have been held in the ordinary section of a prison. The Court therefore held that there had been a violation of Article 2 concerning his death, but no violation concerning the effectiveness of the investigation.

#### Article 5

The Court observed, firstly, that the deprivation of liberty at issue had had a legal basis in the Social Protection Act, but that the Act clearly indicated that the detention was not to take place in an ordinary prison environment but in a specialized institution, or, as an exceptional measure, in a prison psychiatric wing. The Court thus concluded that the applicants' son's detention in a prison environment was in breach of Article 5 § 1.

#### Article 41 (just satisfaction)

The Court held that Belgium was to pay the applicants EUR 25,000 each in respect of non-pecuniary damage and EUR 10,000 jointly in respect of costs and expenses.

**Finogenov and Others v. Russia (no. 18299/03 and 27311/03) (Importance 1) – 20 December 2011 – No violation of Article 2 – Proportionate use of force by domestic authorities' security forces to solve a hostage crisis – Violation of Article 2 (substantive and procedural) – (i) Domestic authorities' failure to take the necessary measures to minimize the loss of civilian life**

**during rescue operation – (ii) Lack of an effective investigation into the authorities’ alleged negligence during rescue operation**

The 64 applicants were hostages or relatives of those taken in hostage on 23 October 2002 in a Moscow theatre by a group of more than 40 terrorists. On 26 October, the Russian security forces pumped an unknown narcotic gas into the main auditorium through the building’s ventilation system and the special squad stormed the building. All the terrorists were killed. While the majority of the hostages were liberated, 125 of them died either on the spot or in the city hospitals. The applicants complained that the use of force by the security forces had been disproportionate, the use of gas having done more harm than good. They also complained that the rescue operation had been inadequately planned and carried out and that there had been a lack of medical assistance provided to the hostages. Lastly, they alleged that the criminal investigation had focused on the siege itself and had failed to effectively bring to light any inadequacies in the authorities’ organization of the rescue operation.

The Court stressed in particular that **in situations of such a scale and complexity, it was prepared to grant the domestic authorities a margin of appreciation. In this case, there had been a real, serious and immediate risk of mass human losses.** The Court therefore concluded that, in the circumstances, the authorities’ decision to end the negotiations and resolve the hostage crisis by force by using gas and storming the theatre had not been disproportionate and had not, as such, breached Article 2. Concerning the rescue operation, the Court stressed that, even if the use of the gas was kept secret from the medics and the rescue services, the large number of people in need of medical assistance had come as no surprise, and some general preparations could have been made in advance. Despite that, it was evident that the authorities had not been sufficiently prepared. The Court therefore found that, as a whole, the Russian authorities had not taken all feasible precautions to minimize the loss of civilian life as the rescue operation had been inadequately prepared and carried out, in violation of Article 2. As to the investigation, the Court noted that the investigation into the terrorist act itself had been quite ample and successful. However, the investigation into the rescue operation had been manifestly incomplete. First and foremost, the formula of the gas has never been revealed. Next, the investigative team had made no attempt to question all the members of the crisis cell such as FSB officers who could have given more information about the planning of the operation as well as the decision to use gas and its dosage. The Court concluded that the investigation into the authorities’ alleged negligence during the rescue operation had been neither thorough nor independent and had not been effective, in further violation of Article 2.

Article 41 (just satisfaction)

The Court held that Russia was to pay all 64 applicants a total award of EUR 1,254,000, and EUR 30,000, jointly, for costs and expenses.

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

**Taraburca v. Moldova (no. 18919/10) (Importance 3) – 6 December 2011 – Violation of Article 3 (substantive and procedural) – (i) Ill-treatment of the applicant by the police – (ii) Lack of an effective investigation**

In April 2009, the applicant participated in protests against electoral fraud and was arrested on his way back home. He alleged that he had been beaten in police custody and that the ensuing investigation into his allegation had been inadequate. He further claimed that he had not been allowed to contact his parents during his custody or hire a lawyer of his own choice and that that had intimidated him, preventing him from complaining about his ill-treatment until his parents hired a new lawyer.

The Court underlined in particular that, following visits to Moldova very soon after the events, both the **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the “CPT”)** as well as the **Council of Europe’s Commissioner for Human Rights confirmed that they had collated a large number of credible and consistent allegations indicating that there had been a pattern of police ill-treating detainees** following the April 2009 general elections. As concerned the applicant himself, the Court observed that, when taken into detention, he had been in good health, without any signs of ill-treatment being noted by the prison doctor, but that a week later – on 14 April 2009 – another prison doctor had recorded injuries to his face. The fact that the applicant had not complained of police brutality until that date did not, as suggested by the Government, prove that he had not been ill-treated. The fear and helplessness he had felt had indeed been shared by a majority of the alleged victims, as corroborated in the CPT report. The Court concluded that there had been a violation of Article 3 concerning the applicant’s ill-treatment by the police. As to the investigation, the Court considered that the initial inquiry into the applicant’s complaint, carried out by the authority which employed most of those who stood accused, had been somewhat compromised. Furthermore, the inquiry had been plagued by unexplained delays.

Moreover, none of the officials who had seen the applicant prior to 14 April 2009 had reacted to the applicant's clearly visible injuries and informed the prosecuting authorities of possible ill-treatment. The Court held that the investigation into the applicant's allegations of ill-treatment had been thoroughly inadequate, in further violation of Article 3.

#### Article 41 (just satisfaction)

The Court held that Moldova was to pay the applicant EUR 15,000 in respect of non-pecuniary damage and EUR 1,500 for costs and expenses.

#### **Kanagaratnam and Others v. Belgium (no. 15297/09) (Importance 2) – 13 December 2011 – Violation of Article 3 – Ill-treatment of children on account of domestic authorities' decision to place them in a closed centre pending the examination of their asylum application – No violation of Article 3 – Domestic authorities' decision to place the mother in a closed centre did not amount to ill-treatment – Violation of Article 5 § 1 – Unlawful detention of a mother and her children pending the examination of their asylum application**

The applicants are Sri Lankan nationals of Tamil origin. In January 2009, they arrived at the Belgian border. The Aliens Office decided to place the family – including three children – in a closed transit centre for illegal aliens, pending the processing of their asylum application. The applicant and her three children complained that their detention at a secure facility, which had lasted almost four months, had amounted to inhuman and degrading treatment. They also complained that their continued detention had not been in accordance with the law and had been arbitrary.

#### Article 3

The Court pointed out that it had twice found that Belgium had violated Article 3 on account of having detained alien minors, whether or not accompanied, in a closed centre. Despite the fact that the children had been accompanied by their mother, the Court considered that by placing them in a closed centre, the Belgian authorities had exposed them to feelings of anxiety and inferiority and had, in full knowledge of the facts, risked compromising their development. The Court concluded that there had been a violation of Article 3 in their regard. However, concerning the mother, the Court acknowledged that she had certainly been deeply concerned, anxious and frustrated on account of her inability to assume her role as mother and her powerlessness to protect her children against detention and the conditions of that detention. However, the Court considered that because the children had accompanied the mother at all times, the threshold of seriousness required by Article 3 had not been reached. The Court held that there had been no violation of Article 3 in respect of the mother.

#### Article 5 § 1

The Court considered that by placing the children in a closed centre designed for adult illegal aliens, in conditions which were ill-suited to their extreme vulnerability as minors, the Belgian authorities had not sufficiently guaranteed the children's right to their liberty. As regards the mother, the Court noted that her detention had been extended for the period between the end of March and the beginning of May, despite the fact that her second asylum application had been considered in the meantime. The Court held that there had been a violation of Article 5 § 1.

#### Article 41 (Just satisfaction)

The Court ordered Belgium to pay the applicant EUR 46,650, including EUR 7,650 for herself and EUR 13,000 in respect of non-pecuniary damage suffered by each of her children, and EUR 4,000 in respect of costs and expenses.

#### **Pascari v. Moldova (no. 53710/09) (Importance 3) – 20 December 2011 – Violation of Article 3 (substantive and procedural) – (i) Ill-treatment of the applicant by the police – (ii) Lack of an effective investigation**

In April 2006 the applicant was arrested in a bar on suspicion of theft. He was immediately taken to the police station by four police officers, whom allegedly punched and kicked him in the body and face, fracturing his jaw. The applicant complained that the police officers had seriously injured him during his arrest and that he had not been given the necessary treatment. He also complained of the ineffectiveness of the subsequent investigation.

#### Article 3 (substantive)

The Court reiterated that where an individual was injured while in the custody of police officers, any injury gave rise to a strong presumption of fact. It was therefore incumbent on the Government to provide a plausible explanation of how the injuries had been caused and to produce evidence casting



doubt on the allegations of the victim, particularly where these were supported by medical evidence. The Court accepted that the seriousness of the traumatic injury and the refusal to allow the applicant to undergo a thorough medical examination had caused distress and suffering contrary to Article 3. It concluded that the Moldovan Government bore responsibility for the ill-treatment inflicted on the applicant and declared that there had been a violation of Article 3.

#### Article 3 (procedural)

The Court reiterated that where an individual claimed to have suffered treatment at the hands of police officers that was contrary to Article 3, that provision obliged the authorities to carry out an effective investigation capable of establishing the facts and identifying and punishing the perpetrators. The Court observed in particular that there had been numerous shortcomings in the investigation. Those shortcomings were sufficient for the Court to find that the investigation had not been effective, in violation of Article 3.

#### Article 41 (just satisfaction)

The Court held that Moldova was to pay the applicant EUR 15,000 in respect of non-pecuniary damage and EUR 1,042 in respect of costs and expenses.

### **Teslenko v. Ukraine (no. 55528/08) (Importance 2) – 20 December 2011 – Violation of Article 3 (substantive and procedural) – (i) Torture of the applicant by the police – (ii) Lack of an effective investigation**

Arrested on suspicion of having committed two robberies, the applicant was taken to a police station. According to his submissions, he was tortured by the chief and deputy chief of the district police in an attempt to obtain a confession from him to several counts of robbery. Having received a complaint from the applicant's mother about his ill-treatment in police custody a few days after the events, **representatives of the Ukrainian human rights ombudsman visited him at another police station, where he had been taken in the meantime. They took photographs of his injuries, and the applicant gave the representatives a written account of the events, submitting that he had been forced to write that he had no complaints against the police.** He was examined by a doctor on the same day, who found numerous injuries. **The ombudsman wrote to the Ministry of the Interior that the applicant's situation called for an investigation.** The applicant complained that he was tortured by the police and that there had been no effective investigation into his allegation.

#### Article 3 (substantive)

From the available evidence, the Court considered it established that the applicant had been subjected to handcuffing, punches, kicks and blows from a truncheon. Whatever had led him to change his statements, almost six years after his alleged ill-treatment, to the effect that he had incriminated the police officers under pressure from the investigator, the Court was not convinced by that new account, which moreover had never been submitted to it. In that light, the Court found the applicant's allegation, as raised in his complaint to the Court to be plausible. The Court concluded that, taken as a whole, the treatment at issue had amounted to torture, in violation of Article 3.

#### Article 3 (procedural)

The Court noted that, the subsequent investigation disclosed deficiencies, casting doubts on the diligence of the authorities in their efforts to establish the truth and to bring those guilty to justice. It had lasted for more than seven and a half years, and had advanced no further than to the examination of the case by the first-instance court. While the medical evidence corroborated the applicant's allegation as early as a few days after the events, a number of additional medical examinations were ordered, whose accuracy was questioned by the investigating authorities although they confirmed the initial findings. There had accordingly been a violation of Article 3 in that respect as well.

#### Article 41 (just satisfaction)

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

- **Right to liberty and security**

### **Schwabe and M.G. v. Germany (nos. 8080/08 and 8577/08) (Importance 2) – 1 December 2011 – Violation of Article 5 § 1 – Violation of Article 11 – Unlawful detention of participants in demonstrations against a G8 summit**

In June 2007, the applicants drove to Rostock in order to participate in demonstrations against the G8 summit. Following an identity check, the police found banners in the van with the inscriptions "freedom

for all prisoners” and “free all now”. The applicants were arrested and detained during five and a half days. They complained about their detention.

#### Article 5 § 1

The Court noted in particular that the German courts had not found the applicants guilty of any criminal offence, but had ordered their detention in order to prevent them from committing a potential future offence. While the Convention obliged State authorities to take reasonable steps to prevent criminal offences of which they had or ought to have had knowledge, it did not permit a State to protect individuals from criminal acts committed by a particular person by measures that were in breach of that person’s Convention rights. There had accordingly been a violation of Article 5 § 1.

#### Article 11

The Court found that the authorities’ aim in ordering the applicants’ detention, namely to prevent them from committing a crime, was as such legitimate. It also accepted that guaranteeing the security of the participants and maintaining public order at the summit, with an expected 25,000 demonstrators. However, as the Court found under Article 5, it was not established that the applicants had intended, by displaying the banners, to deliberately stir up other demonstrators prepared to use violence to liberate prisoners. Moreover, the Court found that that, by taking part in the demonstrations against the G8 summit, the applicants had intended to participate in a debate on matters of public interest, namely the effects of globalisation on peoples’ lives. Furthermore, the Court was not convinced that less intrusive measures could not have been found to attain those aims in a proportionate manner, such as seizing the banners. There had accordingly been a violation of Article 11.

#### Article 41 (just satisfaction)

The Court held that Germany was to pay each applicant EUR 3,000 euros in respect of non-pecuniary damage, and EUR 4,233.35 to one of the applicant and EUR 4,453.15 to the other in respect of costs and expenses.

### **A. and others v. Bulgaria (no. 51776/08) (Importance 2) – 29 November 2011 – No violation of Article 5 § 1 – Lawfulness of educational measures consisting in the placement of minors in young offender’s institution**

While the applicants were still minors, they were placed – under the 1958 Youth Anti-Social Behaviour Act – in a young offenders’ institution on account of anti-social behaviour (running away from home, truancy, vagrancy and prostitution). They complained, in particular, that their placement had constituted a punishment and not an educational supervision measure.

The Court observed in particular that the most severe educational measure available, namely placement in a closed institution, had been chosen in the applicants’ case because other less stringent measures aimed at remedying their anti-social behaviour had proved inadequate. Their placement had been ordered for educational purposes in order to provide them with a more favourable environment and a more structured upbringing. It had not been a criminal sanction nor had it been intended as a punishment. The placement of the five applicants had therefore been compatible with Article 5 § 1 (d), which authorised the detention of minors for the purpose of educational supervision.

### **Rafiq Aliyev v. Azerbaijan (no. 45875/06) (Importance 2) – 6 December 2011 – Violation of Article 5 §§ 3, 4 – Unfairness of proceedings; domestic authorities’ failure to carry out a judicial review of the applicant’s continued detention – Violation of Article 1 of Protocol 1 – Unlawful deprivation of personal shares pending trial**

The applicant was the chief executive officer of various subsidiaries of one of Azerbaijan’s largest private companies, Azpetrol. The applicant was arrested at Baku International Airport on suspicion of carrying 30,000 undeclared US dollars. The following day a judge ordered his detention. The applicant complained in particular that: his arrest and detention were unlawful, alleging that the dollars found on him had been planted in his bag at the airport; his ensuing pre-trial detention, extended for more than two years without adequate justification, was excessive; and, that the related judicial proceedings were unfair. He further complained about the seizure of a number of valuable personal items during the searches of his apartment and offices in the context of the criminal proceedings against him.

#### Article 5 § 3

The Court noted in particular that the first-instance court decisions had each time referred to the gravity of the offences of which the applicant was suspected and to his likely absconding. The courts had not examined the applicant’s personal circumstances and how those might have evolved over time. Instead, they had used a stereotyped formula and had not verified whether the initial grounds on

which they had based their detention decisions had remained valid during the proceedings. As to the Assize Court's decision prolonging the applicant's detention, it had been taken in respect of several suspects collectively. The Assize Court had failed to assess the situation on a case-by-case basis and to give individual reasons in respect of each of the detainees. Consequently, the Court concluded that there had been a violation of Article 5 § 3.

#### Article 5 § 4

The Court observed in particular that while the applicant's lawyer was present at the court hearings, those hearings had been held as a matter of formality and had not been genuinely adversarial; the prosecution's submissions had not been made available to the lawyer, depriving him of the opportunity to effectively contest the reasons invoked by the prosecution for the extension of the pre-trial detention. The courts had not addressed any of the specific arguments advanced by the applicant in his written submissions challenging his continued detention. The Court concluded that the domestic courts had failed to carry out a judicial review of the nature and scope of the continued detention required by the Convention, in violation of Article 5 § 4.

#### Article 1 of Protocol No 1

As regards the attachment of his shares in the Bank of Baku, the Court noted that the applicant had not been deprived of them but provisionally prevented from using them and from disposing of them pending trial. The Azerbaijani law at the time had allowed only the attachment of assets of individuals "accused" of a criminal offence, with a view to securing a possible penalty of confiscation imposed at the outcome of the criminal proceedings. However, at the time of delivery of the attachment decision, the applicant had not been an "accused person" as he had not yet been formally charged with the specific criminal offences of which the bank shares were considered as proceeds. Consequently, the attachment of his shares in the Bank of Baku was not in accordance with the law. There had, therefore, been a violation of Article 1 of Protocol No 1.

#### Article 41 (Just satisfaction)

The Court held that Azerbaijan was to pay the applicant EUR 7,000 euros in respect of non-pecuniary damage and EUR 25,000 for costs and expenses.

### **Altınok v. Turkey (no. 31610/08) (Importance 2) – 29 November 2011 – Violation of Article 5 §§ 4 and 5 – Lack of an effective remedy to provide detainees with effective proceedings to challenge pre-trial detention, lack of an effective remedy for claiming compensation**

The applicant alleged in particular that the lodging of an objection against a decision to keep him in pre-trial detention and the procedure for automatic review of detention had been ineffective. He also complained that the Assize Court had not given adequate reasons for ordering his continued detention and dismissing his objections.

#### Article 5 § 4

The Court reiterated in particular that proceedings concerning an appeal against detention must be adversarial and ensure equality of arms between the parties, that is, between the prosecutor and the detained person. The other party must be aware that observations had been filed and have an opportunity to comment on them. The Court noted that Turkish legislation on pre-trial detention and the objection procedure had been amended in 2004 by a new Criminal Procedure Act, which had come into force in June 2005. The Court had found on a number of previous occasions that the former Criminal Procedure Act was ineffective. Regarding the objection procedure provided for by the new law, the Court noted that the holding of a hearing was at the discretion of the court concerned, irrespective of whether the detained person or his or her lawyer had requested one. Moreover, the Court noted that the Criminal Procedure Act did not afford detained persons the right to be notified, whether on request or automatically, of the public prosecutor's opinion. In this connection it emphasized that defendants were entitled, as a party to the proceedings, to receive a copy of such submissions in order to be able to state their opinion on the issue of detention under the same conditions as the prosecutor. It considered that the remedy provided for in domestic law had not satisfied the requirements of Article 5 § 4, since it had not observed the principle of equality of arms between the parties.

#### Article 5 § 5

The Court observed that section 141 of the Criminal Procedure Act did not provide, in any of the circumstances to which it referred, for the possibility of claiming compensation for damage suffered as a result of the lack of an effective remedy for challenging pre-trial detention. It therefore considered that there had been no effective remedy for the purposes of Article 5 § 5.

#### Article 41 (Just satisfaction)

The Court held that Turkey was to pay the applicant EUR 2,000 euros in respect of non-pecuniary damage and EUR 2,000 in respect of costs and expenses.

#### **Beiere v. Latvia (no. 30954/05) (Importance 2) – 29 November 2011 – Violation of Article 5 § 1 – Arbitrary deprivation of liberty in a psychiatric hospital, in the context of criminal proceedings against the applicant, for an assessment of her mental state**

In April 2002 a prosecutor requested, in the context of criminal proceeding brought against the applicant, her placement in a psychiatric hospital. A month later, a single judge of the Saldus district court authorised her internment. The judge also ordered the police to escort the applicant there and to guard her during the examination. The applicant complained about the unlawfulness of, as well as her inability to challenge, her confinement in a psychiatric hospital.

The parties agreed that the placement of the applicant in the psychiatric hospital had deprived her of her liberty. The Government argued that the applicant's detention had been ordered as she had failed to comply with a lawful order of a court within the meaning of Article 5 § 1 (b), one of the exceptions to no-one being deprived of their liberty. The Court noted, however, that the wording of Article 5 § 1 (b) presupposed that someone had had an opportunity to comply with a court order but had failed to do so. Individuals could not be held accountable for not complying with court orders if they had never been informed of them. The applicant had been told about the existence of the Saldus district court order only once she had been taken to the psychiatric hospital. Therefore, she had not known about the order or its contents and had not been given any chance to comply with it voluntarily, at a time convenient for her. As regards the lawfulness of that court order, the question to be determined was whether it had complied with the core objective of Article 5 § 1, namely to prevent individuals from being deprived of their liberty in an arbitrary manner. The order had been adopted in the applicant's absence and without summoning her to the hearing or informing her that a hearing was going to take place. In addition, it could not be clearly established from the materials submitted in the case whether she had been aware at all that criminal charges had been brought against her. She had been represented by a lawyer whom she had never met and had never been told that the lawyer had been authorised to represent her. Consequently, the Court found that the domestic proceedings had not protected the applicant sufficiently against a potentially arbitrary deprivation of her liberty. Because of that, the Saldus court decision had not met the requirements of "a lawful court order". There had, therefore, been a violation of Article 5 § 1.

#### Article 41 (Just satisfaction)

The Court held that Latvia was to pay the applicant 9,000 euros (EUR) in respect of non-pecuniary damage.

- **Right to fair trial**

#### **Ajdarić v. Croatia (no. 20883/09) (Importance 2) – 13 December 2011 – Violation of Article 6 § 1 – Unfairness of domestic courts' decision to condemn a man to a 40-year prison sentence on the basis of evidence given by a mentally unstable prisoner – Domestic authorities' obligation to reopen the proceedings if the applicant requested it**

The applicant is currently serving a 40-year prison term in Lepoglava State Prison for three murders. The applicant complained about the unfairness of his conviction, as it was solely based on a conversation between himself and a co-detainee, while he was hospitalised in a prison hospital, supposedly overheard by another prisoner who was mentally unstable.

The Court noted that the applicant had been convicted of three murders and sentenced to 40 years' imprisonment solely on the basis of evidence given by a prisoner and that the national courts had expressly stated that there had been no other evidence implicating the applicant in the murders. As to the evidence given by that prisoner as such, the Court noted that, according to psychiatric reports, he suffered from emotional instability and histrionic personality disorder, but that he had not undergone the recommended compulsory psychiatric treatment. The Court also noted that the part of the prisoner's evidence referring to the applicant's involvement in the murders was imprecise and unclear and concerned his own conclusions rather than concrete facts, and that some of his statements were contradictory. Lastly, the Court noted that, during the proceedings, the applicant had made serious objections as to the reliability of evidence given by the prisoner, but that the national courts had not adequately responded to those objections. The Court considered that such lack of adequate reasoning by the national courts deprived the applicant of his right to a fair trial. The Court therefore found a violation of Article 6 § 1. The Court further asked the Croatian authorities to reopen the proceedings,

should the applicant so request, within six months following the date on which the Court's judgment becomes final.

Article 41 (just satisfaction)

The Court held that Croatia was to pay the applicant EUR 9,000 in respect of non pecuniary damage and EUR 8,674 in respect of costs and expenses.

**Hanif and Khan v. the United Kingdom (nos. 52999/08 and 61779/08) (Importance 2) – 20 December 2011 – Violation of Article 6 § 1 – Lack of impartiality of the court on account of the presence of a police officer in the jury**

The applicants were both convicted of conspiracy to supply heroin. They complained that the presence of a police officer on the jury denied them the right to a fair trial.

The Court referred to its consistent case-law to the effect that it is of fundamental importance in a democratic society that the courts inspire confidence in the public and the accused and emphasised the need to ensure that juries are free from bias and the appearance of bias. It noted that the Criminal Justice Act 2003, which for the first time allowed police officers to serve in juries in England and Wales, was also a departure from the rule followed in a number of other jurisdictions which have trial by jury. Recent public consultations in a number of jurisdictions had shown support for the continued exclusion of police officers from jury service. The first applicant's defence had depended to a significant extent upon his challenge to the evidence given by the police officers, including the one sitting in the jury. There was therefore a clear dispute between the defence and the prosecution regarding the credibility of the evidence of the police officers. The Court considered that where there was an important conflict regarding police evidence, and a police officer who was personally acquainted with the police officer giving the relevant evidence was a member of the jury, that juror might, favour the evidence of the police. The Court accordingly found that the first applicant had not been tried by an impartial tribunal, in violation of Article 6 § 1. The applicants had been co-defendants in one set of criminal proceedings and had been convicted by the same jury. Thus the Court considered that there had also been a violation of Article 6 § 1 in respect of the second applicant.

Article 41 (just satisfaction)

The Court decided that the finding of a violation of Article 6 constituted sufficient just satisfaction and rejected the applicants' claims in respect of non-pecuniary damage. However it held that the United Kingdom was to pay the first applicant EUR 4,500 and the second applicant EUR 2,000 in respect of costs and expenses.

**Poirot v. France (no. 29938/07) (Importance 2) – 15 December 2011 – Violation of Article 6 § 1 – Excessive procedural formalism deprived the applicant of her right to appeal**

In March 2002, a judicial investigation was opened into alleged rape and sexual assault of the applicant, a disabled person in an especially vulnerable position. In December 2006, an investigating judge amended the charges to sexual assault. The applicant's appeal against this new classification was declared inadmissible because she had not explicitly mentioned the grounds for the appeal, namely that she was challenging the classification of the alleged acts because she considered that they amounted to a serious criminal offence and should be tried by the Assize Court. The applicant complained that the authorities had dismissed her appeal, thus depriving her of access to a court and of her right to a fair hearing.

The Court observed that, in accordance with a provision of domestic law, a civil party could appeal against an order by the investigating judge to send a case for trial before a criminal court if that party considered that the acts complained of amounted to a serious criminal offence and should have been tried by an assize court. The Court noted that the applicant had exercised that right as a civil party. The Court furthermore observed that the applicant had not been formally required by the Code of Criminal Procedure to make explicit reference to the grounds of her appeal. It further noted that the provision in question was the only one that allowed the applicant to challenge the committal order made by the investigating judge. Moreover, by dismissing her appeal, the authorities had deprived the applicant not only of an examination of the merits of her appeal by the Investigation Division but also of a review by the Court of Cassation, since no appeal lay against the order declaring her appeal inadmissible. The Court concluded that there had been a violation of Article 6 § 1.

Article 41 (just satisfaction)



The Court held that France was to pay the applicant EUR 3,000 in respect of non-pecuniary damage and EUR 500 in respect of costs and expenses. Judges Spielmann, Power-Forde and Yudkivska expressed a joint concurring opinion.

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

**Giszczak v. Poland (no. 40195/08) (Importance 2) – Two violations of Article 8 – Domestic authorities’ failure to allow a prisoner to visit his dying daughter and to attend her funeral**

The applicant is currently serving a 13-year prison sentence. Six years into his prison sentence, the applicant was informed that his 11-year old daughter had been hit by a bus and was in intensive care in a coma. He applied for compassionate leave to visit her but the authorities refused this request. His daughter died few days later but the applicant did not go to her funeral as he believed that he would have to attend in prison clothes with shackles (chains) on both his hands and legs and under uniformed police escort. The applicant complained about the refusal to allow him to visit his seriously injured daughter in hospital and, following her death, to attend her funeral in normal clothes.

The Court considered that the reasons given for not allowing the applicant to visit his daughter in hospital had not been convincing as the authorities’ concerns (gravity of the offence and rude behaviour) could have been addressed by organising his escorted leave. The Court therefore concluded that the refusal had not been “necessary in a democratic society” as it had not corresponded to a pressing social need and had not been proportionate to the legitimate aim – namely protecting public safety and preventing disorder or crime – pursued. There had therefore been a violation of Article 8 concerning the refusal to let the applicant visit his dying daughter in hospital. As concerned the compassionate leave to go to his daughter’s funeral, the Court noted that the written decision had only been served on the applicant four days after the funeral had actually taken place. Furthermore, it had not been particularly precise. Nor had he been given clear information about the conditions for attending his daughter’s funeral when informed orally of the decision. Indeed, the fact that the applicant had not been informed in time and in a clear and unequivocal manner about the conditions of his compassionate leave had resulted in him refusing to go as he was worried about causing disruption. There had therefore been a further violation of Article 8 on account of the Polish authorities’ failure to reply adequately and in good time to the applicant’s request to go to his daughter’s funeral.

Article 41 (Just satisfaction)

The Court held that Poland was to pay the applicant EUR 2,000 in respect of non-pecuniary damage.

**Cengiz Kılıç v. Turkey (no. 16192/06) (Importance 2) – 6 December 2011 – Violation of Article 8 – Excessive length of divorce proceedings involving issues of parental responsibility – Violation of Article 6 § 1 – Excessive length of divorce proceedings – Violation of Article 13 in conjunction with Article 6 § 1 – Lack of an effective remedy**

The applicant married in 1996 and the couple had a child in 2001. In November 2001 the applicant filed a petition for divorce. In a decision of December 2005 the court rejected the divorce petition filed by the applicant, noting that he had been convicted of domestic violence in 2003. In 2006 the applicant filed a second petition for divorce with the court, submitting that he and his wife had lived apart for more than five years. In total, some 15 hearings were held during the second set of proceedings. In 2010 the divorce decree became final. The applicant alleged a violation of his right to respect for his private and family life in that he had been forced to remain married although he had lived apart from his wife for many years. He complained of shortcomings on the part of the domestic authorities, which had not taken the necessary steps to allow him to maintain relations with his son and had not removed the obstacles to the exercise of his right to contact despite the court decisions in which he had been granted that right. The applicant also complained of the length of the two sets of divorce proceedings, and of the lack of an effective remedy enabling him to have his case heard within a reasonable time.

Article 8

The Court reiterated that Article 8 included a right for parents to have measures taken with a view to reuniting them with their child and an obligation on the national authorities to take such action. Proceedings relating to parental responsibility required urgent handling as the passage of time could have irremediable consequences for relations between the child and the parent not living with him or her. The Court observed in particular that between October 2005 and December 2008 the applicant had applied to the court at least ten times for an order ensuring the continuation of his personal relations with his son and had informed the court that his visiting contact had been hindered by the child’s mother, since at times he had had no contact with his son for up to two years. The Court

considered that by failing to take all the measures that could reasonably have been expected of it in such circumstances, the State had fallen short of its obligations under Article 8.

#### Article 6 § 1

The Court observed that the first set of divorce proceedings instituted by the applicant had lasted four years and one month and the second set four years and five months. The proceedings had not been especially complex, apart from the fact that the parties had disagreed on almost all aspects: the divorce, the granting of parental responsibility and the payment of maintenance. Although the two successive sets of proceedings had been separate, the Court considered that regard should nevertheless be had to the fact that they had had the same purpose and involved the same parties. In view of what was at stake in the proceedings, namely the parents' divorce and its consequences for the applicant's relations with his son, the Court found that the length of the two sets of proceedings could not be considered reasonable and concluded that there had been a violation of Article 6 § 1. Observing that the Turkish legal system did not afford litigants the opportunity to complain of the excessive length of proceedings, the Court held that there had been a violation of Article 13. Judge Popović expressed a separate opinion.

#### Article 41 (Just satisfaction)

The Court held that Turkey was to pay the applicant EUR 17,000 in respect of non-pecuniary damage and EUR 1,000 in respect of costs and expenses.

#### **X v. Latvia (no. 27853/09) (Importance 2) – 13 December 2011 – Violation of Article 8 – Domestic authorities' failure to respect the applicant's family rights by ordering her daughter to live with her father in Australia**

In November 2008, an Australian family court decided, in the absence of the applicant, that both her and her daughter's father had joint parental responsibility since their daughter was born. In the meantime the Latvian Ministry for Children and Family Affairs received a request from the father, sent by the Australian Central Authority, for the return of the child to Australia under the Hague Convention on Child Abduction. The lower court ordered the applicant to return the child. The applicant challenged that decision but her application was dismissed. She complained in particular about the unfairness of the proceedings before the Latvian courts concerning the return of her child to Australia.

The Court recalled that it had found in its earlier case law that "the child's best interests" had to be a primary consideration in the context of the procedures provided for in the Hague Convention. It was not persuaded by the conclusions of the Latvian court that a psychological report could only be considered as part of a custody dispute and not in relation with the Hague Convention. Emphasizing the paramount interests of the child in matters of that kind, the Court stressed that national courts had to consider claims under the Hague Convention while paying due respect to the interests of the child. National courts also had the duty to make an in-depth examination of the entire family situation. The Latvian court of appeal had not considered the psychological report and had thus disregarded its clear conclusions signaling a risk of psychological damage in the event the child were separated from her mother. In view of all the above, the Court concluded that there had been a violation of Article 8.

#### Article 41 (just satisfaction)

The Court held that Latvia was to pay the applicant EUR 9,000 in respect of non-pecuniary damage and EUR 1,044 for costs and expenses. Judges Myjer and Lopez Guerra expressed a joint dissenting opinion.

- **Protection of property**

#### **Gladysheva v. Russia (no. 7097/10) (Importance 2) – 6 December 2011 – Violation of Article 1 of Protocol No. 1 – Violation of Article 8 – Domestic authorities' failure to strike a fair balance between the interests of the City of Moscow and the applicant's right to respect for her home concerning the eviction of the *bona fide* owner of an unlawfully privatised flat – Application of Article 41 – The Court held that Russia was to fully reconstitute the applicant's title to her flat and annul the eviction order against her**

The applicant bought a flat, formerly social housing, from V. who had bought it from Ms Ye. Ms Ye had herself acquired it under a privatisation scheme. In July 2009 the national courts found that the privatisation of the flat by Ms Ye. had been fraudulent. The courts recognized that the applicant had bought the flat in good faith but found that the flat had been removed from the City of Moscow's possession without any intention on its part to give it up. The courts ordered the applicant's eviction without compensation or an offer of alternative housing. **The Moscow City Ombudsman wrote to the**

**Mayor of Moscow in December 2009 asking him to consider offering the applicant social tenancy of the flat. This was met with a refusal. More recently, the Ombudsman has raised the alert to a growing number of flats being repossessed from bona fide buyers by the City of Moscow due to irregular privatisation by previous owners and has called for a thorough investigation of such cases.** The applicant alleged that it was disproportionate to strip her of her property through no fault of her own when she had paid the full market price for it.

#### Article 1 of Protocol No. 1

The Court noted that it was not clear why it had only come to light in 2008 that the privatisation of the flat by Ms Ye. had been fraudulent. It was up to the State to define the conditions and procedures under which it transferred ownership of its assets to persons it considered eligible and to oversee compliance with those conditions. It was not for the applicant, or any other third-party buyer of the flat to assume the risk that their ownership be revoked on account of defects which should have been eliminated in specifically designed procedures. Such mistakes should be assumed by the State authorities and not be remedied at the expense of the individual concerned. The Court concluded that dispossessing the applicant of her flat had placed an excessive individual burden on her without sufficient justification that this was in the public interest, in violation of Article 1 of Protocol No. 1.

#### Article 8

The Court found it important to take into account that the flat's intended beneficiaries on the social housing waiting list could not be sufficiently individualized for their personal circumstances to be balanced against those of the applicant. In any event, no individual on the waiting list would have had the same attachment to or vested interest in that particular flat as the applicant. Nor was she eligible for substitute housing. The Court therefore found that the authorities had entirely left out of the equation the applicant's right to respect for her home when balancing it against the interests of the City of Moscow, in violation of Article 8.

#### Article 41 (Just satisfaction)

**The Court held that Russia was to fully reconstitute the applicant's title to her flat and annul the eviction order against her.** Furthermore, Russia was to pay her 9,000 euros (EUR) in respect of non-pecuniary damage and EUR 11,245 for costs and expenses.

#### **Göbel v. Germany (no. 35023/04) (Importance 2) – 8 December 2011 – No violation of Article 1 of Protocol No. 1 – Proportionality of domestic authorities' decision to order the restitution of a property that its owners were forced to sell under the Nazi regime**

In April 1992, the applicant bought a share in a property situated in Erfurt and jointly owned by a community of heirs of an industrialist. The property had originally belonged to the S. brothers, who were Jewish and had been forced to sell it under the Nazi regime in 1938; they subsequently left Germany and took refuge in Australia. In 1992, the heirs of the S. brothers sought the restitution of the land under a 1990 Act applicable, in particular, to people who had lost their property by forced sale or expropriation under the Nazi regime. The Office for the Resolution of Outstanding Property Issues granted their request and ordered the restitution of the land. According to the Office, the applicant was entitled to a payment of consideration for a sum equivalent to the sale price of his shares in 1938.

The applicant did not contest the restitution of the disputed land as such, but maintained that the deprivation of his property was disproportionate on account of the very small amount of compensation to which he would be entitled at the end of the proceedings which are still pending.

The Court noted that the measure had been based on the Property Act, which contained clear provisions on the conditions for the restitution of land expropriated at the time of the GDR and was also applicable to the rights of people who had lost their property by forced sale or expropriation under the Nazi regime. The Court had no doubt – and that had not been disputed by the applicant – that the aim pursued by the German legislature to return the property to the heirs of the original Jewish owners, who were victims of persecution under the Nazi regime, was in the public interest. The applicant had acquired the first share in the property from the community of heirs after the entry into force of the 1990 Property Act and before the expiry of the time limit for restitution claims, fixed at 31 December 1992. In addition, he had been duly informed of the property's history. The Court therefore accepted the Government's argument that the applicant had knowingly taken the risk of acquiring property against which a restitution claim could be made. In the light of those considerations, the Court found that Germany had not overstepped its margin of appreciation and had not failed to strike a fair balance between the applicant's property interests and the general interest of German society. There had accordingly been no violation of Article 1 of Protocol No. 1.



**Althoff and Others v. Germany (no. 5631/05) (Importance 2) – 8 December 2011 – Violation of Article 1 of Protocol No. 1 – Disproportionate interference with heirs’ right to peaceful enjoyment of possessions on account of retroactive legislative amendment’s failure to strike a fair balance between the protection of property and the demands of general interest concerning properties expropriated in East Germany**

The applicants, nine German nationals, are the heirs of a shopkeeper who, in 1939, bought a property made up of plots of land. The original owners of the land were Jewish and had been forced to sell it under the Nazi regime in 1938. In 1953, in the socialist German Democratic Republic (GDR), the land was expropriated and became “people’s property”. In 1990, the applicants filed a claim for the restitution of the property under the 1990 Property Act. The Act provided that property which had been expropriated in the GDR was returned on request if restitution claims were filed no later than 31 December 1992; it was applicable also to people who had lost their property by forced sale or expropriation under the Nazi regime. It further provided that if a number of parties made a request for restitution concerning the same property, the party that had “first” been injured was thus entitled to restitution. Accordingly, when property was sold under duress under the Nazi regime and later expropriated in the GDR, the heirs of the original Jewish owners had a priority right to restitution. In such cases, the heirs of purchasers who had bought the property during the Nazi era were entitled to the payment of compensation. In July 2001, the Office for the Resolution of Outstanding Property Issues dismissed the applicants’ restitution claim concerning the property, which in 1997 had been sold to a company for investment purposes, and indicated that the proceeds from that sale were to be paid to the German State. The applicants complained that the Property Act as amended in 1998 and its application by the German courts infringed their right to the peaceful enjoyment of their possessions.

The Court first noted that the applicants had submitted a restitution claim under the Property Act, while the German Government had not submitted such a claim within the statutory time limit applicable under the Act in its original version before an amendment of 1998. Therefore, after the expiry of the time limit, in the absence of any restitution claim by the German Government, sole successor to the heirs of the original Jewish owners, the applicants, even though they were the heirs of the owners of property expropriated in the GDR and thus the subsequent injured party, had a legitimate expectation of being able to exercise a right to the restitution of the property concerned. In the Court’s view, the amendment thus constituted an interference with their right to the peaceful enjoyment of their possessions. As regards the proportionality of the interference with the applicants’ rights, the Court noted that the retrospective amendment of the Property Act had created an inequality to the State’s advantage and to the detriment of the applicants. They had been deprived of any right to restitution of the property in question or to payment of the proceeds of the sale that took place after reunification. The Court further noted that the time between the applicants’ submission of their restitution claim in October 1990 and the decision of the Office for the Resolution of Outstanding Property Issues to dismiss that claim in July 2001, thus ten-and-a-half years, had been excessive. While German legislation provided for the payment of compensation in the applicants’ case, the expected amount did not appear proportionate to the seriousness of the interference with their rights. It was not certain whether they would be able to obtain any compensation at all. In the light of those considerations, the Court found that the legislative amendment had not struck a fair balance between the protection of property and the demands of the general interest, in violation of Article 1 of Protocol No. 1.

Article 41 (Just satisfaction)

The Court held that the question was not ready for decision and reserved it. It invited the Government and the applicants to submit their observations on the matter and to notify the Court of any agreement that they might reach.

## **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 29 Nov. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 01 Dec. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 06 Dec. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 08 Dec. 2011: [here](#)

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

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

<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	29 Nov. 2011	Grüne Alternative Wien (no. 13281/02) Imp. 3	Struck out of the list	The Court concluded that it was no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) and made an award in respect of the costs of the Convention proceedings (see <i>Verlagsgruppe News GmbH</i> (dec.), <i>Standard Verlags GmbH</i> (dec.) and <i>Standard Verlags GmbH and Rottenberg</i> . The Court considered that the costs claimed were necessary and reasonable as to quantum and awarded them in full. The Court considered that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points	<a href="#">Link</a>
Greece	06 Dec. 2011	Anastasakis (no. 41959/08) Imp. 3	Violation of Art. 6 § 1	Domestic authorities' failure to compensate the applicant for the loss of his property	<a href="#">Link</a>
Moldova	06 Dec. 2011	Bercut S.R.L. (no. 32247/07) Imp. 3	Violation of Art. 1 of Prot. 1	Unlawful withdrawal by domestic authorities of the applicant company's license	<a href="#">Link</a>
Poland	29 Nov. 2011	Barbara Wiśniewska (no. 9072/02) Imp. 2	No violation of Art. 1 of Prot. 1	Adequate compensation for expropriation	<a href="#">Link</a>
Russia	06 Dec. 2011	Rozhin (no. 50098/07) Imp. 2	Violation of Art. 6 § 1	Unfairness of proceedings	<a href="#">Link</a>
Slovakia	06 Dec. 2011	Popivčák (no. 13665/07) Imp. 2	No violation of Art. 6 § 1	Fairness of repayment proceedings	<a href="#">Link</a>
Slovakia	06 Dec. 2011	Žúbor (no. 7711/06) Imp. 2	Violation of Art. 5 § 1 Violation of Art. 5 § 4	Unlawful detention Excessive length of proceedings regarding the lawfulness of the applicant's detention	<a href="#">Link</a>
Slovakia	29 Nov. 2011	Kováčik (no. 50903/06) Imp. 2	Violation of Art. 5 § 1	Unlawful detention on remand	<a href="#">Link</a>
Slovenia	01 Dec. 2011	V. (no. 26971/07) Imp. 3	No violation of Art. 8	Lawfulness of domestic authorities' decision to take the applicants' son and daughter into foster care following the suspicious death of their third child	<a href="#">Link</a>
Turkey	29 Nov. 2011	Kılıç and Eren (no. 43807/07) Imp. 3	Violation of Art. 10	Disproportionate interference with the applicant's freedom of expression on account of their conviction for chanting slogans in support of the imprisoned leader of an illegal organisation	<a href="#">Link</a>
Turkey	06 Dec. 2011	Ayangil and Others (no. 33294/03) Imp. 3	Violation of Art. 1 of Prot. 1	Domestic authorities' failure award adequate compensation to the applicant following <i>de facto</i> expropriation	<a href="#">Link</a>
Turkey	06 Dec. 2011	Iylilik (no. 2899/05) Imp. 2	No violation of Art. 8	Lawfulness of domestic authorities' decision to reject the applicant's request for DNA tests	<a href="#">Link</a>
Ukraine	01 Dec. 2011	Andriyevska (no. 34036/06) Imp. 3	Violation of Art. 6 § 1	Hindrance to the applicant's right of access to a court in cassation proceedings	<a href="#">Link</a>
Ukraine	08 Dec. 2011	Shulgin (no. 29912/05) Imp. 3	Violation of Art. 5 § 5	Domestic authorities' failure to compensate the applicant concerning his unlawful conviction for extortion	<a href="#">Link</a>

- Press release by the Registrar concerning the Chamber judgments issued on 13 Dec. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 15 Dec. 2011: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 20 Dec. 2011: [here](#)

<b><u>State</u></b>	<b><u>Date</u></b>	<b><u>Case Title and Importance of the case</u></b>	<b><u>Conclusion</u></b>	<b><u>Key Words</u></b>	<b><u>Link to the case</u></b>
Armenia	20 Dec. 2011	Poghosyan (no. 44068/07) Imp. 2	Violation of Article 5 § 1 Violation of Article 5 § 3  Violation of Article 5 § 4	Unlawful detention Excessive length of detention (19 days) Lack of an effective remedy to challenge the detention	<a href="#">Link</a>
Belgium	20 Dec. 2011	Yoh-Ekale Mwanje (no. 10486/10) Imp. 2	No violation of Article 3   Violation of Article 3 Violation of Article 13 Violation of Article 5 § 1 (f)	The applicant's claim that she would not have access to the anti-retroviral drugs she needed for HIV treatment if deported to Cameroun, are not sufficient to conclude to a violation of Article 3 Poor conditions of detention Lack of an effective remedy Unlawful detention	<a href="#">Link</a>
Hungary	20 Dec. 2011	Ferencne Kovacs (no. 19325/09) Imp. 3	Violation of Article 5 § 1	Unlawful detention	<a href="#">Link</a>
Latvia	20 Dec. 2011	Zandbergs (no. 71092/01) Imp. 2	Violation of Article 5 § 3  Violation of Article 5 § 4 (detention between 28 February 2001 and 4 April 2003) No violation of Article 6 § 1	Excessive length of detention on remand (more than 3 years and 3 months) Domestic court's failure to speedily decide the applicant's detention  Fairness proceedings	<a href="#">Link</a>
Montenegro	13 Dec. 2011	Barać and Others (no. 47974/06) Imp. 3	Violation of Article 6 § 1	Unfairness of civil proceedings	<a href="#">Link</a>
Montenegro and Serbia	13 Dec. 2011	Lakićević and Others (nos. 27458/06, 37205/06, 37207/06 and 33604/07) Imp. 2	Violation of Article 1 of Prot. 1	Unlawful suspension of the applicants' pensions	<a href="#">Link</a>
Romania	20 Dec. 2011	Bălăsoiu (no. 2) (no. 17232/04) Imp. 2	Violation of Article 8	Arbitrary and disproportionate interference with the applicant's rights under Article 8 on account of a police report damaging the applicant's reputation	<a href="#">Link</a>
Romania	20 Dec. 2011	G.C.P. (no. 20899/03) Imp. 2	Violation of Article 6 § 2	Infringement of the applicant's right to be presumed innocent due to a negative media campaign and statements made against him during the investigation	<a href="#">Link</a>
Russia	20 Dec. 2011	Ergashev (no. 12106/09) Imp. 3	Violation of Article 3  Violation of Article 3 Violation of Article 5 § 1 Violation of Article 6 § 2	Risk of being tortured in case of extradition to Uzbekistan Poor conditions of detention Unlawful detention Infringement of the right to be presumed innocent	<a href="#">Link</a>
Russia	13 Dec. 2011	Kryuk (no. 11769/04) Imp. 3	Violation of Article 6 § 1	Excessive length of criminal proceedings (over 5 years and 9 months)	<a href="#">Link</a>
Russia	13 Dec. 2011	Vasilyev and Kovtun (no. 13703/04)	Violation of Article 6 § 1  Violation of Article 1 of	Hindrance to the applicants' right to a fair trial Domestic authorities' consistent	<a href="#">Link</a>

		Imp. 3	Prot. 1	failure to indicate a legal provision that could be construed as the basis for the precipitated enforcement of the confiscation orders against the applicants	
Serbia	20 Dec. 2011	Đokić (no. 1005/08) Imp. 2	Violation of Article 6 § 1	Hindrance to the applicant's right of access to the Supreme Court; unfairness of proceedings	<a href="#">Link</a>
Slovakia	13 Dec. 2011	Laduna (no. 31827/02) Imp. 2	Violation of Article 14 in conjunction with Article 8  No violation of Article 1 of Prot. 1  No violation of Article 13	Disproportionate restrictions on visits to the applicant by his family members during his detention Lawfulness of the applicant's obligation to use half of the money he received from his family to pay back part of his debt to the State Article 13 does not require a remedy against the state of domestic law	<a href="#">Link</a>
Spain	13 Dec. 2011	Valbuena Redondo (no. 21460/08) Imp. 3	Violation of Article 6 § 1	Unfairness of proceedings on account of the applicant's conviction without a public hearing)	<a href="#">Link</a>
the Czech Republic	20 Dec. 2011	Prod.lalova (no. 40094/08) Imp. 2	Violation of Article 8	Unlawful restrictions to the applicant's visiting rights (limited to two hours every two weeks)	<a href="#">Link</a>
the United Kingdom	20 Dec. 2011	A.H. Khan (no. 6222/10) Imp. 2	No violation of Article 8	Deportation to Pakistan would not violate the applicant's right to respect for family life	<a href="#">Link</a>
the United Kingdom	20 Dec. 2011	J.H. (no. 48839/09) Imp. 2	No violation of Article 3	Lack of sufficient evidence to conclude that the applicant risks being subjected to ill-treatment if deported to Afghanistan	<a href="#">Link</a>
the United Kingdom	20 Dec. 2011	Minshall (no. 7350/06) Imp. 3	Violation of Article 6 § 1	Excessive length of proceeding (over 6 years)	<a href="#">Link</a>
Ukraine	15 Dec. 2011	Kondratyev (no. 5203/09) Imp. 2	No violation of Article 3  Violation of Article 3  Violation of Article 5 § 1 (c) Violation of Article 5 § 3	Adequate medical care in detention in respect of a knee injury Lack of adequate medical care in detention in respect of a tuberculosis infection Unlawful detention  Excessive length of detention (over 3 years, for two levels of jurisdiction)	<a href="#">Link</a>
Ukraine	15 Dec. 2011	Oleynikova (no. 38765/05) Imp. 3	Violation of Article 2	Lack of an effective investigation into the applicant's son's death	<a href="#">Link</a>
Ukraine	15 Dec. 2011	Veniosov (no. 30634/05) Imp. 2	Violation of Article 3 Violation of Article 5 §§ 1 (c)	Poor conditions of detention Unlawful detention	<a href="#">Link</a>
Ukraine	20 Dec. 2011	Maksimenko (no. 39488/07) Imp. 2	Violation of Article 6 § 3 (c)	Lack of free legal assistance during proceedings before the Supreme Court	<a href="#">Link</a>
Ukraine	20 Dec. 2011	Masneva (no. 5952/07) Imp. 3	Violation of Article 2 (procedural) No violation of Article 2 (substantive)	Lack of an effective investigation in respect of the applicant's son's death Lack of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact that the State failed to protect the applicant's life	<a href="#">Link</a>

### 3. Repetitive cases

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

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

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Conclusion</u>	<u>Key words</u>
Azerbaijan	06 Dec. 2011	Zahid Mammadov and Others (nos. 3172/08, 42347/08, 454/09, 2772/09 and 32585/09) <a href="#">link</a>	Violation of Art. 6 § 1 Violation of Art. 1 of Prot. 1	Non-enforcement of judgments in the applicants' favor
France	20 Dec. 2011	Huet (no. 14313/08) <a href="#">link</a>	No violation of Art. 6 § 1	Effective access to a court
Moldova	13 Dec. 2011	Burea and Others (nos. 55349/07, 16968/09, 19750/09, 32465/09 and 39377/09) <a href="#">link</a>	Violation of Art. 6 § 1 and Art. 1 of Protocol No. 1  Violation of Art. 13 (in application no. 39377/09)	Domestic authorities' failure to enforce final judgments in the applicants' favor concerning the provision of social housing or the payment of compensation for property confiscated in the 1940s Lack of an effective remedy
Moldova	13 Dec. 2011	Ojog and Others (no. 1988/06) <a href="#">link</a>	Violation of Art. 6 § 1 and Art. 1 of Protocol No. 1	Quashing of a final decision in the applicants' favor concerning immovable property
Poland	20 Dec. 2011	Mirosław Wojciechowski (no. 18063/07) <a href="#">link</a>	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 (c)	Refusal of the applicant's legal aid lawyer to bring a cassation appeal in his case
Poland	20 Dec. 2011	Zambrzycki (no. 10949/10) <a href="#">link</a>	Violation of Art. 5 § 3	Excessive length of pre-trial detention
Romania	20 Dec. 2011	S.C. Concordia International S.R.L. Constanta (no. 38969/02) <a href="#">link</a>	Rejection of a request for revision	No new fact justifying a revision
Russia	06 Dec. 2011	Aleksandr Ponomarev (no. 8235/03) <a href="#">link</a>	No violation of Art. 6 § 1 Violation of Art. 6 § 1	Reasonable length of the proceedings Delayed enforcement of a judgment in the applicant's favour
Russia	13 Dec. 2011	Kokurkhayev (no. 46356/09) <a href="#">link</a>  Trudov (no. 43330/09) <a href="#">link</a>	No violation of Art. 6 § 1 (Kokurkhayev) Violation of Art. 6 § 1 (Trudov)	Domestic authorities' failure to inform the applicants of the date and place of appeal hearings, which were held in their absence
Russia	13 Dec. 2011	Rozhnyatovskaya (no. 35002/05) <a href="#">link</a>	Violation of Art. 6 § 1 Violation of Art. 1 of Protocol No. 1	Domestic authorities' failure to enforce a judgment in the applicant's favor concerning an allowance for the active participation in combat
Turkey	29 Nov. 2011	Çelik and Abatay (no. 45490/05) <a href="#">link</a>  Stoica (no. 19985/04) <a href="#">link</a>	Violation of Art. 5 § 3  Violation of Art. 6 § 1 (in the case of Çelik and Abatay)	Excessive length of pre-trial detention (12 years and 2 months)  Excessive length of proceedings (19 years)
Turkey	13 Dec. 2011	Abdurrahman Yıldırım (no. 53329/08) <a href="#">link</a> ; Bilgin and Örsel (no. ...)	Violation of Art. 6 § 1 (all cases)	Deprivation of the applicants' property for several years by administrative authorities without an expropriation order; Excessive delay of the period during which the authorities failed to ensure payment of the

		<a href="#">41166/05</a> ) <a href="#">link</a> ; Coşkun and Others (no. 35561/05) <a href="#">link</a> ; Domaniç (no. 14738/06) <a href="#">link</a> ; Gerçek and Others (no. 54223/08) <a href="#">link</a> ; Gezen (no. 53323/08) <a href="#">link</a> ; Gökçe (no. 54227/08) <a href="#">link</a> ; Gülsoy (no. 3875/06) <a href="#">link</a> ; Gümüş (no. 41150/05) <a href="#">link</a> ; Halise Tuncel and Others (no. 29666/06) <a href="#">link</a> ; Kazanlar (no. 54170/08) <a href="#">link</a> ; Mesci (no. 14030/06) <a href="#">link</a> ; Mustafa Tuna (no. 14935/06) <a href="#">link</a> ; Özkara and Telli (no. 53339/08) <a href="#">link</a> ; Sapmaz (no. 54154/08) <a href="#">link</a> ; Şenirmak (no. 4631/06) <a href="#">link</a> ; Taktakoğlu (no. 54250/08) <a href="#">link</a> ; Zerdali and Others (no. 54173/08) <a href="#">link</a>		compensation awarded to the applicants in a final court decision
Turkey	20 Dec. 2011	<a href="#">Topel</a> (no. 14937/06) <a href="#">link</a>	Violation of Art. 6 § 1	Domestic authorities' failure to enforce a judgment in good time (25 months)
Ukraine	20 Dec. 2011	<a href="#">Oleynikova</a> (no. 11930/09) <a href="#">link</a>	Violation of Art. 5 § 1 (c)	Unlawful detention
Ukraine	01 Dec. 2011	<a href="#">Bazalt Impeks, Tov</a> (no. 39051/07) <a href="#">link</a>	Violation of Art. 6 § 1	Domestic Supreme Court's decision to uphold an appeal court's ruling exceeded its jurisdiction

#### 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>
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Greece	06 Dec. 2011	Antonios Simos and Others (no. 41969/08)	<a href="#">Link</a>
Hungary	06 Dec. 2011	Csorba (no. 49905/06)	<a href="#">Link</a>
Hungary	20 Dec. 2011	Janos Toth (no. 6841/07)	<a href="#">Link</a>
Hungary	20 Dec. 2011	Kokavec (II) (no. 12192/06)	<a href="#">Link</a>
Hungary	20 Dec. 2011	Kovacsics and Automobil Kft. (no. 25454/06)	<a href="#">Link</a>
Hungary	20 Dec. 2011	Szechenyi (no. 1233/06)	<a href="#">Link</a>
Ireland	08 Dec. 2011	T.H. (no. 37868/06)	<a href="#">Link</a>
Poland	20 Dec. 2011	Gil (no. 29130/10)	<a href="#">Link</a>
Portugal	20 Dec. 2011	Antunes (II) (no. 24760/10)	<a href="#">Link</a>
Portugal	20 Dec. 2011	Pereira (II) (no. 20493/10)	<a href="#">Link</a>
Slovenia	15 Dec. 2011	Beguš (no. 25634/05)	<a href="#">Link</a>
Russia	06 Dec. 2011	Rednikov (no. 18072/04)	<a href="#">Link</a>
Turkey	20 Dec. 2011	Ahmet .Ihan (no. 8030/07)	<a href="#">Link</a>
Turkey	20 Dec. 2011	Şenay Yıldız (no. 21167/06)	<a href="#">Link</a>
Turkey	20 Dec. 2011	Bozkurt (no. 7089/07)	<a href="#">Link</a>
Ukraine	08 Dec. 2011	Petrov and Others (nos. 44654/06, 32525/08 and 35537/08)	<a href="#">Link</a>
Ukraine	08 Dec. 2011	Kovalenko (no. 61404/08)	<a href="#">Link</a>
Ukraine	15 Dec. 2011	Orlov (no. 5842/05)	<a href="#">Link</a>
Ukraine	20 Dec. 2011	Surdina (no. 5547/07)	<a href="#">Link</a>
Ukraine	20 Dec. 2011	Buryak (no. 32764/06)	<a href="#">Link</a>
Ukraine	20 Dec. 2011	Lyubart-Sangushko (no. 25851/06)	<a href="#">Link</a>

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

These decisions are published with a slight delay of two to three weeks on the Court's Website. The decisions listed below cover **the period from 21 November to 4 December 2011**.

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

<b><u>State</u></b>	<b><u>Date</u></b>	<b><u>Case Title</u></b>	<b><u>Alleged violations (Key Words)</u></b>	<b><u>Decision</u></b>
Azerbaijan	22 Nov. 2011	Musayev (no 53805/07) <a href="#">link</a>	Alleged violation of Articles 5, 6 §§ 1 and 3 (a), (b), (c) and (d), 7 and 13 (unlawfulness of pre-trial detention, unfairness of criminal proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Finland	29 Nov. 2011	Duma (no 58254/10) <a href="#">link</a>	Alleged violation of Articles 3 and 8 (risk of ill-treatment and interference with the applicant's right to respect for family life if deported to Russia)	Struck out of the list (it is no longer justified to continue the examination of the application)
Poland	22 Nov. 2011	Zurawski (no 49165/10) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Grudziądz no. 2 Prison)	Struck out of the list (friendly settlement reached)
Poland	22 Nov. 2011	Sobolewski (no 45111/08) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Srem Remand Centre and in Wronki Prison)	Idem.
Poland	29 Nov. 2011	Gawel (no 33635/11) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention)	Idem.
Poland	29 Nov. 2011	Lukjanionok (no 7524/08) <a href="#">link</a>	Alleged violation of Art. 5 § 3 (excessive length of detention on remand)	Struck out of the list (the applicant no longer wished to pursue his application)
Poland	29 Nov. 2011	Gawronski (no 38287/07) <a href="#">link</a>	The applicant complained about the conditions of his arrest and of the subsequent detention on remand	Idem.
Romania	22 Nov. 2011	Vintan (no 8179/05) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention), Art. 5 (unlawful detention) and Art. 6 (unfairness of proceedings)	Idem.
Romania	22 Nov. 2011	Buzea (no 14872/10) <a href="#">link</a>	Alleged violation of Articles 6 and 8 (unfairness of divorce proceedings, hindrance to the applicant's right to see her child)	Struck out of the list (the applicant no longer wished to pursue her application)
Russia	22 Nov.	Yegorov (no 39287/09)	Alleged violation of Articles 3 and 5 (lack of adequate medical care and	Struck out of the list (friendly settlement reached)

	2011	<a href="#">link</a>	unlawful detention of a mentally sick person in an ordinary remand prison)	
Russia	22 Nov. 2011	Igor Zakharov (no 27472/07) <a href="#">link</a>	Alleged violation of Art. 3 (ill-treatment in police custody), Art. 5 (unlawful arrest and detention), Art. 6 (unfairness of proceedings)	Struck out of the list (the applicant no longer wished to pursue his application)
Russia	29 Nov. 2011	Prokofyevy (no 9521/07) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (domestic authorities' failure to enforce judgments in the applicants' favour in good time; unfairness and excessive length of proceedings)	Partly struck out of the list (unilateral declaration of the Government concerning the delay in the enforcement proceedings), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application: the period of enforcement complied with the requirements of the Convention)
Serbia	29 Nov. 2011	Kosanin (no 12192/07) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (respondent party's failure to pay to the applicant an amount awarded to her by a final decision)	Struck out of the list (friendly settlement reached)
Slovakia	22 Nov. 2011	Brljevicova (no 29102/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings), Articles 3 and 8	Idem.
Slovenia	22 Nov. 2011	Mazi (no 3760/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings)	Idem.
Slovenia	22 Nov. 2011	Petronio (no 33093/04) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings), Art. 1 of Prot. 1 in conjunction with Art. 14 (expropriation on account of the applicant's Italian citizenship)	Struck out of the list (following the applicant's death, no heir or close relative expressed the wish to pursue the application)
the Netherlands	29 Nov. 2011	Ibrahim Hayd (no 30880/10) <a href="#">link</a>	Alleged violation of Articles 2, 3, 8 and 13 (domestic authorities' refusal to grant the applicant asylum; threatened forced return to Somalia)	Struck out of the list (it is no longer justified to continue the examination of the application)
the United Kingdom	29 Nov. 2011	Subner (no 46850/10) <a href="#">link</a>	Alleged violation of Art. 6 in conjunction with Art. 14 (the applicant complained that restricting his right of appeal to an appeal by way of review when other, better paid healthcare professionals would enjoy a right of appeal by way of a re-hearing was a discriminatory difference in treatment since it had no rational or logical basis), Art. 13 (lack of an effective remedy)	Struck out of the list (friendly settlement reached)
the United Kingdom	29 Nov. 2011	Boaz (no 43688/07) <a href="#">link</a>	If returned to Uganda the applicant would be at risk of death or ill-treatment on account of his imputed political opinion	Struck out of the list (the applicant no longer wished to pursue his application)
the United Kingdom	29 Nov. 2011	Black (no 37685/09) <a href="#">link</a>	Alleged violation of Art. 5 § 4 (domestic authorities' failure to provide the applicant with a possibility to challenge the lawfulness of his detention)	Struck out of the list (friendly settlement reached)
the United Kingdom	29 Nov. 2011	Tawakoli (no 61852/09) <a href="#">link</a>	Alleged violation of Articles 3 and 8 (the applicant's deportation to Afghanistan would allegedly put him at risk of ill-treatment due to his Hazara ethnicity, young age and lack of family or other support in Afghanistan)	Struck out of the list (matter resolved at the domestic level)
the United Kingdom	29 Nov. 2011	Hurst (no 42577/07) <a href="#">link</a>	Alleged violation of Art. 2 (domestic authorities' failure to take reasonable steps to prevent the applicant's death and lack of an effective investigation in that	Struck out of the list (the applicant no longer wished to pursue her application)



			respect), Art. 13 (lack of an effective remedy)	
Turkey	22 Nov. 2011	Oto (no 26774/07) <a href="#">link</a>	Alleged violation of Articles 2, 6 and 8 (domestic authorities' failure to take the appropriate steps to stop the emission of harmful gases from the applicant's neighbour's chimney into his garden)	Struck out of the list (the applicant no longer wished to pursue his application)
Ukraine	22 Nov. 2011	Cherneychuk (no 40045/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length and unfairness of civil proceedings)	Struck out of the list (friendly settlement reached)
Ukraine	22 Nov. 2011	Shabliy (no 33755/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of criminal proceedings)	Idem.
Ukraine	29 Nov. 2011	Chupryenko (no 5074/09) <a href="#">link</a>	The applicant complained about the excessive length of proceedings	Idem.

The decisions listed below cover **the period from 5 to 18 December 2011**.

<b><u>State</u></b>	<b><u>Date</u></b>	<b><u>Case Title</u></b>	<b><u>Alleged violations (Key Words)</u></b>	<b><u>Decision</u></b>
Albania	06 Dec. 2011	Sharra (no 29975/06) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (unfairness of proceedings), Art. 1 of Prot. 1 (domestic authorities' failure to enforce a decision within a reasonable time)	Partly inadmissible for non-respect of the six-month requirement (concerning the alleged unfairness of the rehearing proceedings before the District Court), partly inadmissible as manifestly ill-founded (concerning the remainder of the application)
Greece	06 Dec. 2011	Christos Karagiannis (no 14848/10) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and 13 (length of the proceedings before domestic courts and lack of an effective remedy in this respect), Art. 1 of Prot. 1 (domestic authorities' refusal to award to the applicant the total amount of money he was allegedly entitled to)	Struck out of the list (friendly settlement reached)
Latvia	06 Dec. 2011	Sapožkovs (no 8550/03) <a href="#">link</a>	Alleged violation of Art. 3 (ill-treatment in Daugavgrīva Prison), Article 5 § 1 (c), Articles 5 § 3 and 6 §§ 1 and 3	Partly adjourned (concerning the alleged ill-treatment on 1 July 2009 and its investigation), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Latvia	06 Dec. 2011	Šulcs (no 42923/10; 51500/10 etc.) <a href="#">link</a>	Alleged violation of Art. 1 of Prot. 1 (Domestic authorities' failure to provide a sufficient transition period for the amendments of the amount of parental benefits reduced by 50% as a result of the austerity measures introduced in Latvia in 2009), Articles 6, 8 and 14	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention as the measures adopted by the legislator were considered proportional)
Lithuania	06 Dec. 2011	Jankauskas (no 21978/07) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention at Šiauliai Remand Prison), Art. 8 (censorship by the Šiauliai Remand Prison authorities of his correspondence to and from the Court), whilst detained in Šiauliai Remand Prison the applicant was placed in a cell with detainees who had previous convictions	Partly struck out of the list (unilateral declaration of the Government concerning the poor conditions of detention at Šiauliai Remand Prison and the censorship by the Šiauliai Remand Prison authorities of his correspondence to and from the Court), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Poland	06	Klonowski (no	Alleged violation of Art. 3 (poor	Struck out of the list (friendly

	Dec. 2011	1344/11) <a href="#">link</a>	conditions of detention)	settlement reached)
Poland	06 Dec. 2011	Wysoczanski (no 35089/09) <a href="#">link</a>	Alleged violation of Art. 3 (overcrowding in Jelenia Góra Remand Centre)	Struck out of the list (unilateral declaration of the Government)
Poland	06 Dec. 2011	Sobusiak (no 1937/11) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention)	Struck out of the list (friendly settlement reached)
Poland	06 Dec. 2011	Blaszczak (no 15323/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (length of criminal proceedings, which commenced on 25 July 2003 and are still pending before the first-instance court)	Idem.
Poland	06 Dec. 2011	Ryba (no 28992/09) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Kłodzko Prison)	Struck out of the list (the applicant no longer wished to pursue his application)
Romania	06 Dec. 2011	Szemkovics (no 27117/08) <a href="#">link</a>	Alleged violation of Art. 3 (lack of medical treatment in Giurgiu and Aiud Prisons), Art. 34, (Prison authorities' refusal to provide the applicant with envelopes, stamps and a copy of his medical records), Art. 8 (lack of access to his psychiatric medical file)	Partly adjourned (concerning claims under Articles 3 and 34), partly inadmissible as manifestly ill-founded for failure to substantiate complaint (concerning the remainder of the application)
Russia	06 Dec. 2011	Levashko (no 2259/04; 23510/04 etc.) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (non-enforcement of a judgment in the applicant's favour)	Inadmissible as manifestly ill-founded (the domestic courts established that the applicants' pension was de facto calculated in accordance with the previous judicial rulings on this subject and that the applicants suffered no disadvantage. The Court sees no reason to depart from the findings of the domestic courts in this case)
Russia	06 Dec. 2011	Prokhorenko (no 28856/06) <a href="#">link</a>	Alleged violation of Art. 6 and Art. 1 of Prot. 1 (non-enforcement of the judgment in the applicant's favour and its subsequent quashing by way of supervisory review), Art. 13 (lack of an effective remedy)	Partly struck out of the list (unilateral declaration of Government concerning non-enforcement of the judgment in the applicant's favour and its subsequent quashing by way of supervisory review; the applicant's widow has not expressed a wish to continue the proceedings in respect of the complaint under Article 13 raised before this Court in the applicant's stead)
Russia	06 Dec. 2011	Chernyy (no 24822/06) <a href="#">link</a>	Idem.	Idem.
Russia	06 Dec. 2011	Ustimenko (no 18855/06) <a href="#">link</a>	Idem.	Idem.
Russia	06 Dec. 2011	Nikiforov (no 28310/06) <a href="#">link</a>	Idem.	Idem.
Slovenia	06 Dec. 2011	Šorl (no 2805/07) <a href="#">link</a>	Alleged violation of Art. . 6 (excessive length and unfairness of proceedings), Art. 1 of Prot. 1 (bankrupt of the company owned by the applicant because of the length of proceedings)	Partly struck out of the list (friendly settlement reached concerning the 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)
Slovenia	06 Dec. 2011	Bevk (no 39111/05) <a href="#">link</a>	The applicant complained about the right of access to a court	Struck out of the list (the applicant no longer wished to pursue her application)
Sweden	06 Dec. 2011	A.G. (no 22107/08) <a href="#">link</a>	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if expelled to Libya), Art. 13 (lack of an effective remedy)	Struck out of the list (the matter has been resolved at the domestic level)

"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Jana Ristova and Others (no 31114/07) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of proceedings concerning the payment of allowances)	Struck out of the list (friendly settlement reached)
"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Bosilkova (no 31708/07) <a href="#">link</a>	Idem.	Idem.
"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Fidanovska (no 22231/07) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of civil proceedings concerning the applicant's claim in bankruptcy assets of the debtor)	Idem.
"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Hasan-Ozgun (no 35621/04) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of civil proceedings on payment of debt)	Idem.
"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Malceva (no 6438/07) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of civil proceedings for compensation of work-related allowances)	Idem.
"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Petrusev (no 17410/07) <a href="#">link</a>	Alleged violation of Art. 6 (concerning criminal proceedings brought against the applicant for abuse of duty)	Idem.
"the Former Yugoslav Republic of Macedonia"	06 Dec. 2011	Dimov (no 11792/07) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of civil proceedings for annulment of a decision for allocation of an apartment)	Idem.
the Netherlands	06 Dec. 2011	Rengifo Alvarez (no 14232/07) <a href="#">link</a>	Alleged violation of Art. 3 (risk of being subjected to ill-treatment if deported to Colombia)	Inadmissible (the applicant has not proved the existence of substantial grounds for believing that she would be at real risk of ill-treatment if deported)
Turkey	06 Dec. 2011	Brunner (no 10/10) <a href="#">link</a>	Alleged violation of Articles 3, 5, 6 and 13 (alleged kidnapping and ill-treatment of the applicant by certain people, who the applicant said were police officers)	Inadmissible (non-respect of the six-month requirement)
Turkey	06 Dec. 2011	Kosta and Others and Petsas and Others (no 30984/96; 35213/97) <a href="#">link</a>	Alleged violation of Articles 8, 9, 14 and Art. 1 of Prot. 1 (violation of the applicants' right to peaceful enjoyment of their possessions; offence to the applicants' religious feelings by the building of a mosque)	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	06 Dec. 2011	Atilgan and Others (no 32121/10) <a href="#">link</a>	Alleged violation of Art. 10 (in the light of the case of <i>Ürper and Others v. Turkey</i> )	Struck out of the list (friendly settlement reached)
Turkey	06 Dec. 2011	Kalkan and YILDIZ (no 37361/09) <a href="#">link</a>	Alleged violation of Art. 3 (ill-treatment by police officers), Art. 5 (unlawful detention), Art. 6 (unfairness of proceedings)	Partly adjourned (concerning the second applicant's alleged ill-treatment), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Ukraine	06 Dec. 2011	Yednorig (no 50699/06) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 1 of Prot. 1 (unfavourable outcome of the lengthy proceedings), Articles 1 and 2	Partly struck out of the list (unilateral declaration of Government concerning the 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	06 Dec. 2011	Kvasnevskaya (no 43791/05) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of proceedings) and Art. 1 of Prot. 1 (unfavourable outcome of the lengthy proceedings)	Inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention)

Ukraine	06 Dec. 2011	Gederim (no 15139/05) <a href="#">link</a>	Alleged violation of Articles 6 and 34 (lack of an effective investigation in to the applicant's alleged suicide attempt), Art. 3 (lack of medical assistance)	Partly inadmissible for non-exhaustion of domestic remedies (concerning the alleged lack of medical assistance), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
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### C. The communicated cases

The European Court of Human Rights publishes on a weekly basis a list of the communicated cases on its Website. These are cases concerning individual applications which are pending before the Court. They are communicated by the Court to the respondent State's Government with a statement of facts, the applicant's complaints and the questions put by the Court to the Government concerned. The decision to communicate a case lies with one of the Court's Chamber which is in charge of the case.

There is in general a gap of three weeks between the date of the communication and the date of the publication of the batch on the Website. Below you will find the links to the lists of the weekly communicated cases which were published on the Court's Website:

- on 5 December 2011: [link](#)
- on 12 December 2011: [link](#)
- on 19 December 2011: [link](#)
- on 26 December 2011: [link](#)

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

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

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

#### Communicated cases published on 5 December 2011 on the Court's Website and selected by the Directorate for Human Rights

*The batch of 5 December 2011 concerns the following States (some cases are however not selected in the table below): Armenia, Estonia, Finland, France, Germany, Hungary, Poland, Romania, Russia, San Marino, Sweden, Switzerland, the Czech Republic, 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>
Armenia	17 Nov. 2011	Karapetyan and Others no 59001/08	Alleged violations of Art. 10 – Dismissal of the applicants on account of their statements in the media concerning the political crisis in Armenia following the 2008 presidential elections
Russia	14 Nov. 2011	Kasparov and Others no 51988/07	Alleged violations of Art. 3 (substantive) – (i) Ill-treatment by the police – (ii) Poor conditions of detention – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Articles 10 and 11 – Arrest and persecution of the applicants on account of their participation to protest rallies – Alleged violation of Art. 18 – Unjustified interference with the applicants' liberty, allegedly restricted for the purpose of undermining their rights to freedom of assembly and expression
Turkey	14 Nov. 2011	Canpolat and Others no 27382/07	Alleged violations of Art. 2 – Lack of an effective investigation in respect of the death of the applicants' relative while in police custody
Turkey	14 Nov. 2011	Duran and Duran no 55768/11	On 24 March 2006 fourteen PKK members were killed in armed clashes in south-east Turkey. During the funeral and in the following days large-scale clashes took place between police officers and civilians in Diyarbakır. In the

			course of the clashes a total of ten civilians, five of whom were under the age of 18, were killed by the security forces and a further 200 civilians were injured – Alleged violations of Art. 2 (substantive and procedural) – (i) Alleged intentional killing of the applicants' nine and a half year-old son by police officers – (ii) Lack of an effective investigation
Turkey	14 Nov. 2011	Eğitim Ve Bilim Emekçileri Sendikası and Others no 20347/07	Alleged violations of Art. 3 (substantive and procedural) – (i) Ill-treatment and (ii) lack of an effective investigation – Alleged violation of Art. 11 – Excessive use of police force during the dispersal of a demonstration

**Communicated cases published on 12 December 2011 on the Court's Website and selected by the Directorate for Human Rights**

*The batch of 12 December 2011 concerns the following States (some cases are however not selected in the table below): Armenia, France, Georgia, Greece, Hungary, Italy, Latvia, Montenegro, Poland, Romania, Russia, Slovenia, Spain, Sweden, the Netherlands and Turkey.*

<b>State</b>	<b>Date of Decision to Communicate</b>	<b>Case Title</b>	<b>Key Words of questions submitted to the parties</b>
France	21 Nov. 2011	Morel no 25689/10	Alleged violations of Art. 10 – Alleged interference with the applicant's right to freedom of expression on account of his conviction for publishing a press article concerning a town's mayor
Sweden	23 Nov. 2011	M.A.M. no 60723/10	Alleged violations of Articles 2 and 3 – Risk of being killed or subjected to ill-treatment if expelled to Zimbabwe
Turkey	21 Nov. 2011	Güler and Uğur nos 31706/10 and 33088/10	Alleged violations of Articles 9 and 11 – Alleged interference with the applicants' right to freedom of assembly and freedom of religion on account of their criminal conviction for having participated in a religious ceremony

**Communicated cases published on 19 December 2011 on the Court's Website and selected by the Directorate for Human Rights**

*The batch of 19 December 2011 concerns the following States (some cases are however not selected in the table below): Bulgaria, Latvia, Moldova, Portugal, Romania, Russia, Slovakia, Spain, Sweden, the Czech Republic, the Netherlands, the United Kingdom, Turkey and Ukraine.*

<b>State</b>	<b>Date of Decision to Communicate</b>	<b>Case Title</b>	<b>Key Words of questions submitted to the parties</b>
Moldova	01 Dec. 2011	Lazăr no 2156/08	Alleged violations of Art. 3 (substantive and procedural) – Ill-treatment by state officers and lack of an effective investigation
Portugal	28 Nov. 2011	Amorim Giestas and Jesus Costa Bordalo no 37840/10	Alleged violations of Art. 10 – Conviction of the applicant for having published an article in the <i>Jornal do Centro</i> concerning the donation of certain assets belonging to the court of São Pedro do Sul to a private social welfare institution in the same city implying favoritism
Romania	30 Nov. 2011	Baba no 35922/05	Alleged violations of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Art. 14 in conjunction with Art. 6 § 1 – Discrimination on grounds of ethnic origin
Romania	29 Nov. 2011	Ciorcan and Others and Biga and Others nos 29414/09 and 44841/09	Alleged violations of Art. 2 (substantive and procedural) – (i) Threat to the applicant's life by use of excessive force – (ii) Lack of an effective investigation – Alleged violations of Art. 3 (substantive and procedural) – (i) Ill-treatment due to the use of force – (ii) Lack of an effective investigation – Alleged violation of Art. 14 in conjunction with Articles 2 and 3 – Alleged discrimination on grounds of the applicants' Roma ethnic origin
Sweden	30 Nov. 2011	Atayeva and Burman no 17471/11	Alleged violations of Art. 8 – Enforcement of a deportation order against the first applicant would allegedly breach her right to respect for private life
Turkey	28 Nov. 2011	Olcaşöz no 16353/10	Alleged violations of Art. 10 – Criminal conviction of the applicants on account of slogans chanted during a demonstration

**Communicated cases published on 26 December 2011 on the Court's Website and selected by the Directorate for Human Rights**

*The batch of 26 December 2011 concerns the following States (some cases are however not selected in the table below): Armenia, Belgium, Finland, France, Germany, Greece, Latvia, Lithuania, Luxembourg, Moldova, Romania, Russia, Serbia, Sweden, Switzerland, the Czech Republic, the Netherlands, the United Kingdom, Turkey and Ukraine.*

<b>State</b>	<b>Date of Decision to Communicate</b>	<b>Case Title</b>	<b>Key Words of questions submitted to the parties</b>
Finland	08 Dec. 2011	E.O. no 74606/11	Alleged violations of Art. 3 – Risk of being subjected to ill-treatment if expelled to Nigeria
Luxembourg	05 Dec. 2011	Etute no 22655/11	Alleged violations of Art. 8 – Monitoring of the applicant's correspondence with the Court
Romania	05 Dec. 2011	Postei no 43775/07 and 5 other applications	Alleged violations of Art. 9 – Alleged lack of protection of the applicants' right to practice their religion freely in promoting their religious beliefs, due to an effective investigation regarding their assault by two Orthodox priests
Switzerland	07 Dec. 2011	Moor and Moor no 41072/11	Alleged violations of Art. 6 § 1 – Lack of an access to a tribunal – Alleged violation of Art. 14 in conjunction with Art. 6 § 1 – <b>Alleged difference in the treatment of people with mesothelioma (from exposure to asbestos) whose effects appear only after the 10-year limitation period compared to persons who suffer from damage whose consequences manifest immediately and can therefore respect the timely requirement</b>
Turkey	06 Dec. 2011	Altun and Others no 54093/10	Alleged violations of Articles 9 and 11 – Conviction of the applicants for having taken part to a religious ceremony – Alleged violation of Art. 10 – Conviction of one of the applicants for having said a few words during a religious ceremony – Alleged violation of Art. 8 – Conviction of one of the applicants for having organized a religious ceremony to the memory of his deceased nephew
Ukraine	08 Dec. 2011	Shmushkovych no 3276/10	Alleged violations of Art. 6 § 1 – Domestic courts' failure to pronounce a judgment publicly – Alleged violation of Art. 11 – Conviction of the applicant to pay a fine for the purportedly late notification of a picket he organised

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

**Practical guide on admissibility criteria (13.12.2010)**

The Registry published a comprehensive Practical Guide on Admissibility Criteria for lawyers to try to stem the flow of obviously inadmissible applications which are "flooding" the European Court. The **handbook**, which **explains in detail the Court's admissibility criteria**, is at the moment available in English and French and will later be available in other languages, in particular Russian and Turkish. [Press Release](#), [Practical guide](#)

**Reports of Judgments and Decisions of the Court (19.12.2011)**

Following a review of the policy on publication of the Reports of Judgments and Decisions of the Court, the Jurisconsult has made a fresh selection of judgments and decisions for the period 2007-2010 ([Read more](#))



## 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
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#### **Extract of decisions taken during 1100th CMDH meeting - Item e:**

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

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

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

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

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

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

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

- **Procedures outlines**

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

1. Standard procedure

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

- if the state concerned considers that it has already taken all the necessary measures to implement a judgment, it 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 of 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/dgh/monitoring/execution/Themes/Add\\_info/Info\\_cases\\_en.asp](http://www.coe.int/t/dgh/monitoring/execution/Themes/Add_info/Info_cases_en.asp)

2. Enhanced procedure

- a. *Indicators*

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

- b. *Procedure*

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



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

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

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

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

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

*More information:*

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

[CM/Del/Dec\(2011\)1120/item1bis / 12 September 2011](#)

### 4. Just satisfaction

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

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

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

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

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

For more information on the specific question of the execution of judgments including the Committee of Ministers’ annual report for 2010 on its supervision of judgments, please refer to the Council of Europe’s web site dedicated to the execution of judgments of the European Court of Human Rights:

[http://www.coe.int/t/dghl/monitoring/execution/Default\\_en.asp](http://www.coe.int/t/dghl/monitoring/execution/Default_en.asp)

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

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

## Part III: General Agenda

The “General Agenda” presents events that either took place or were announced<sup>\*</sup> during the period under observation (29.11 – 25.12.2011) for this RSIF.

### December 2011

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- 2 December:
  - > Seminar in Chisinau on non-accepted provisions of the Charter in Moldova
- 5-9 December:
  - > European Committee of Social Rights 254<sup>th</sup> Session
- 6-8 December:
  - > Annual stock-taking and planning meetings NPMs and NHRs (Peer-to-Peer II Joint Project)
- 6-9 December:
  - > GRETA 12th Meeting
- 7 December:
  - > Seminar on the collective complaint system (Lisbon)
- 13 December:
  - > Seminar on the protection of social rights in Georgia

### January 2012

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- 23-25 January:
  - > 255<sup>th</sup> session of the European Committee of Social Rights

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\* These are subsequently due to take place.

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

### A. European Social Charter (ESC)

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

#### The CPT visited Andorra (05.12.2011)

A delegation of the CPT recently carried out a four-day visit to Andorra which began on 28 November 2011. The CPT's delegation examined the measures taken by the Andorran authorities in response to the recommendations made following its previous visit (in 2004); in particular, attention was paid to the safeguards afforded to persons detained by the police following recent legislative reforms and to the conditions of detention in the new prison establishment of La Comella (as well as the conditions of hospitalization of prisoners at the Hospital of Nostra Senyora de Meritxell). It also examined the treatment of persons suffering from mental health problems ([Read more](#))

#### The CPT announced visits to ten states in 2012 (07.12.2011)

In 2012, as part of its programme of periodic visits, the CPT intends to examine the treatment of persons deprived of their liberty in the following ten countries: [Croatia](#), [Estonia](#), [Iceland](#), [Italy](#), [Lithuania](#), [Monaco](#), [Portugal](#), [the Russian Federation](#), [Slovenia](#) and the [United Kingdom](#). ([Read more](#))

#### The CPT visited Ukraine (12.12.2011)

A delegation of the CPT carried out an ad-hoc visit to Ukraine from 29 November to 6 December 2011. The main objective of the visit was to review progress made regarding the treatment and conditions of detention of persons deprived of their liberty by law enforcement agencies. For this purpose, the delegation visited the pre-trial establishments (SIZOs) in Kyiv and Kharkiv and various police establishments ([Read more](#))

#### The CPT visited Armenia (13.12.2011)

A delegation of the CPT carried out an ad hoc visit to Armenia from 5 to 7 December 2011. The purpose of the visit was to review progress made in the light of the recommendations contained in the report on the CPT's visit to Armenia in 2010, in particular as regards the treatment of prisoners sentenced to life imprisonment. The CPT's delegation visited Yerevan-Kentron Prison and carried out a targeted visit to the unit for lifers and the disciplinary unit of Nubarashen Prison ([Read more](#))

#### The CPT visited Azerbaijan (20.12.2011)

A delegation of the CPT carried out a visit to Azerbaijan from 5 to 15 December 2011. The visit was carried out within the framework of the CPT's programme of periodic visits for 2011 and was the Committee's third periodic visit to Azerbaijan. The CPT's delegation assessed progress made since previous visits and the extent to which the Committee's recommendations have been implemented, in particular as regards police custody, imprisonment – including inmates sentenced to life imprisonment – and legal safeguards for patients in psychiatric institutions. Further, it visited for the first time a psychoneurological boarding home ([Read more](#))

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

## **The CPT publishes report on Norway (21.12.2011)**

The CPT has published on 21 December 2012 the report on its periodic visit to Norway carried out in May 2011. During the visit, the CPT followed up a number of issues examined during previous visits, including the fundamental safeguards offered to persons deprived of their liberty by the police and the conditions of detention of immigration detainees. In this connection, the Committee carried out a follow-up visit to Trandum Aliens Holding Centre. As regards prisons, particular attention was paid to the situation of persons subject to preventive detention (*forvaring*) and to juvenile prisoners. For the first time in Norway, the CPT visited a prison for women (Bredtveit Prison). In addition, a visit was carried out to the Dikemark Regional Department of Forensic and High-Security Psychiatry ([Read the report](#))

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

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

### **Denmark: report on the protection of national minorities (01.12.2011)**

The FCNM published on 1 December 2011 its Third Opinion on Denmark, and the government's Comments. ([Read the Opinion](#); [Read the government's Comments](#))

### **“The former Yugoslav Republic of Macedonia”: report on the protection of national minorities (07.12.2011)**

The FCNM published on 7 December 2011 its Third Opinion on “the former Yugoslav Republic of Macedonia”, and the government's Comments. ([Read the Opinion](#); [Read the government's Comments](#))

### **Austria: third opinion of the FCNM (20.12.2011)**

FCNM published on 20 December 2011 its Third Opinion on Austria, and the government's Comments ([Read the Opinion](#); [Read the government's Comments](#))

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

### **Call for improved anti-bribery legislation and stricter supervision of political funding in Ukraine (30.11.2011)**

GRECO called on 30 November 2011 for Ukraine to increase its efforts to combat bribery and create greater transparency of political funding. In their third report ([theme I / theme II](#)) on Ukraine, GRECO warned that determined action in the area of political financing was clearly required in order to foster citizens' trust in Ukraine's democratic system, its politicians and political parties ([read more](#)).

### **Call for rules on political funding and increased effectiveness of certain anti-corruption provisions in Switzerland (02.12.2011)**

GRECO called on 2 December 2011 for Switzerland to increase the effectiveness of criminal law particularly concerning bribery of foreign public officials and in the private sector, and to adopt legislation on political funding. In its report ([theme I / theme II](#)), GRECO commends Switzerland's solid body of criminal legislation on corruption ([read more](#)).

### **GRECO elects a new President, Vice-President and Bureau (09.12.2012)**

Drago KOS (Slovenia), GRECO's President since 2002, left this important function on the day of election of a new President, Vice-President and Bureau at GRECO's 53rd plenary meeting (5-9 December). Mr. Kos' outstanding services to the Council of Europe and GRECO were honored with the Organisation's Pro Merito Medal presented to him by Deputy Secretary General Maud DE BOER-BUQUICCHIO. The former GRECO Vice-President, Mr. Marin MRČELA (Croatia) was elected to succeed Mr. KOS in this office. Mr. Christian MANQUET (Austria) was elected Vice President. The five newly elected members of the Bureau are Mr. Edmond DUNGA (Albania), Ms. Helena LIŠUCHOVÁ (Czech Republic), Mr. Aslan YUSUFOV (Russian Federation), Mr. Ernst GNAEGI (Switzerland) and Ms. Sladjana TASEVA (“The former Yugoslav Republic of Macedonia”).

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

### **Reports on the 4<sup>th</sup> assessment visit in Cyprus (08.12.2011)**

The reports were adopted at MONEYVAL's 36th Plenary meeting (Strasbourg, 26-30 September 2011). MONEYVAL's 4th cycle of assessments is a follow-up round, in which important FATF Recommendations have been re-assessed, as well as all those for which the state concerned received NC or PC ratings in its 3rd round report. ([Read the Report on Cyprus](#))

### **FATF President Giancarlo del Bufalo's speech at Moneyval's 37<sup>th</sup> Plenary Meeting (19.12.2011)**

([Read the Speech](#)).

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

### **GRETA 12<sup>th</sup> meeting (6-9.12.2011)**

GRETA held its 12th meeting on 6-9 December 2011 at the Council of Europe in Strasbourg. GRETA adopted its final evaluation reports on Georgia and Moldova as amended in the light of the comments received from the respective authorities. GRETA also held an exchange of views with representatives of international non-governmental organisations active in the area of action against trafficking in human beings (Anti-Slavery International, ECPAT International and La Strada International). ([Read the list of decisions adopted at the 12<sup>th</sup> meeting](#)).

### **GRETA published a report on Croatia (30.11.2011)**

GRETA published on 30 November 2011 its first evaluation report on Croatia. In its report, GRETA welcomes the measures taken by the Croatian authorities to prevent and combat trafficking in human beings. GRETA considers that the Croatian authorities should take further steps to raise public awareness and provide training to relevant professionals with a view to overcoming the existing prejudices against victims of trafficking. Specific economic and social measures, reflecting a gender-sensitive approach, should also be taken in respect of persons and groups vulnerable to trafficking in human beings.

### **GRETA published a report on Albania (02.12.2011)**

GRETA published on 2 December 2011 its first evaluation report on Albania. In its report, GRETA notes the significant measures taken by the Albanian authorities to prevent and combat trafficking in human beings. ([Read the report](#))

### **GRETA published report on Bulgaria (14.12.2011)**

GRETA has published on 14 December 2011 its first evaluation report on Bulgaria. In its report, GRETA welcomes the important steps taken by the Bulgarian authorities to prevent and combat trafficking in human beings. Co-ordination of the efforts of relevant actors is ensured through the National Commission for Combating Trafficking in Human Beings, seven local commissions, and a national mechanism for referral and support of trafficked persons. GRETA stresses the need to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to human trafficking. ([Read the report](#))

### **GRETA published report on Denmark (20.12.2011)**

GRETA has published on 20 December 2011 its first evaluation report on Denmark. In its report, GRETA notes the important steps taken by the Danish authorities to combat trafficking in human beings, including the setting up of the Danish Centre against Human Trafficking, the establishment of an Inter-Ministerial Working Group on Human Trafficking, and the adoption of multiannual national anti-trafficking action plans, the latest covering the period 2011-2014. ([Read the report](#))

## Part V: The inter-governmental work

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

**7 December 2011 - Turkey ratified:** the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#))

**8 December 2011 - Lithuania signed:** the European Convention for the Peaceful Settlement of Disputes ([ETS No.23](#))

**13 December 2011 - France signed:** the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin ([ETS No. 186](#)), and the Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes ([CETS No. 203](#)) and **ratified:** the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine ([ETS No. 164](#)) and the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters ([CETS No. 208](#))

**15 December 2011 - Bulgaria ratified:** the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([CETS No. 201](#))

**19 December 2011 - San Marino ratified:** the Convention on the Recognition of Qualifications concerning Higher Education in the European Region ([ETS No. 165](#))

**Albania signed:** the Council of Europe Convention on preventing and combating violence against women and domestic violence ([CETS No. 210](#)).

**20 December 2011 - The Netherlands signed:** the Third Additional Protocol to the European Convention on Extradition ([CETS No. 209](#))

**21 December 2011 - The European Union signed:** the European Convention on the Legal Protection of Services based on, or consisting of, Condition Access ([ETS No. 178](#))

**22 December 2011 - The Netherlands signed:** the Agreement on Illicit Traffic by Sea, implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances ([ETS No. 156](#)) - **Luxembourg signed:** the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health ([CETS No. 211](#))

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

[CM/ResChL\(2011\)4E / 07 December 2011](#): Recommendation on the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Poland.; [CM/Del/Dec\(2011\)1128 addvolresE](#): resolutions adopted at the 1128th meeting, which do not raise any comments from delegations.

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

#### Decisions on execution of European Court of Human Rights judgments (07.12.2011)

The Committee of Ministers published the decisions and resolutions adopted at its fourth special human rights meeting of 2011. More information on those decisions and resolutions will be provided soon to the RSIF readers ([See the decisions and resolutions adopted](#)).

#### Council of Europe alerts against pressure and attacks on Internet (08.12.2011)

The Council of Europe Committee of Ministers alerted, on 8 December 2011, its member States about the risks to the rights to freedom of expression and association that may be created by politically motivated pressure on Internet platforms and online service providers.. ([Read the declaration](#))



## Part VI: The parliamentary work

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

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

#### **Despite lack of level playing field in Russian elections, voters took advantage of right to express choice, observer said (05.12.2011)**

The observers noted that the preparations for the elections were technically well-administered across a vast territory, but were marked by a convergence of the state and the governing party, limited political competition and a lack of fairness. The contest was also slanted in favour of the ruling party: the election administration lacked independence, most media were partial and state authorities interfered unduly at different levels. The observers also noted that the legal framework had been improved in some respects and televised debates for all parties provided one level platform for contestants. On election day, voting was well organized overall, but the quality of the process deteriorated considerably during the count, which was characterized by frequent procedural violations and instances of apparent manipulations, including indications of ballot box stuffing. ([Read more](#))

#### **Election of the Moldovan President: “high time for the parliament to deliver” (05.12.2011)**

Returning from their fact-finding visit to Moldova (28 November-1st December 2011), PACE co-rapporteurs Lise Christoffersen (Norway, SOC) and Piotr Wach (Poland, EPP/CD) welcomed the decision of the Moldovan parliament to set the date of the election of the President on 16 December 2011. "The Moldovan parliament has the power to put an end to a political deadlock lasting for more than 800 days. We urge leaders of all political parties to reach a compromise, to find the required qualified majority and elect the President of the Republic. ([Read more](#))

#### **Bosnia and Herzegovina: PACE President proposes a set of concrete measures to overcome the political stalemate and speed up reforms (08.12.2011)**

At the end of a three-day official visit to Bosnia and Herzegovina, PACE President Mevlüt Çavuşoğlu suggested on 8 December 2011 a set of concrete measures to overcome the political stalemate and speed up reforms, on the eve of Bosnia and Herzegovina's 10th anniversary of membership in the Council of Europe in April 2012, and before the Assembly's debate to be held in January 2012 during PACE's plenary session. "The first priority is to complete the appointment of Bosnia and Herzegovina's representatives in Council of Europe expert and monitoring bodies and launch the process of selection of candidates for the judge to be elected to the European Court of Human Rights," he underlined. ([Read more](#))

#### **PACE co-rapporteurs expressed concern at post-election events in Russia, call for detainees to be released (08.12.2011)**

The co-rapporteurs for Russia of the Monitoring Committee of the PACE, Andi Gross (Switzerland, SOC) and György Frunda (Romania, EPP/CD), on 8 December 2011 expressed their concern at the events which followed the announcement of the result of the parliamentary elections in the Russian Federation. "The right to peacefully demonstrate is one of the basic rights of people in any democratic state, and is part of freedom of expression and assembly. There is no justification for the arrest and detention of hundreds of people just because they have gathered to protest calmly. On the contrary, they have the same right to police protection as those who express their support for the winning party." ([Read more](#))

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\* No resolutions or recommendations were adopted during the period under observation.

### **PACE inquiry into responsibility for loss of life in the Mediterranean Sea: visit to Malta (14.12.2011)**

Tineke Strik (Netherlands, SOC), who is carrying out an inquiry for the PACE into “Lives lost in the Mediterranean Sea: who is responsible?”, in particular for the deaths of ‘boat people’ fleeing Libya, made a fact-finding visit to Malta from 15 to 16 December 2011 ([Read more](#))

### **PACE committee called for charges against former government members in Ukraine to be dropped (16.12.2011)**

PACE Monitoring Committee has called for charges against former government members in Ukraine, including former Prime Minister Yulia Tymoshenko, to be dropped. Former Interior Minister Jurij Lutsenko and former Defence Minister Valeriy Ivahenko should be released at once for humanitarian reasons because of their rapidly deteriorating health, the committee said in a draft resolution approved on 15 December 2011 in Paris ([Read more](#)).

### **The Monitoring Committee reminded Bosnia and Herzegovina that it’s high time to live up to its commitments to the Council of Europe (16.12.2011)**

Meeting in Paris on 15 December, PACE Monitoring Committee reminded Bosnia and Herzegovina that it is time to honour its commitments to the Council of Europe. On the basis of a report by Jean-Claude Mignon (France, EPP/CD) and Karin Woldseth (Norway, EDG), the committee adopted a draft resolution once again calling upon the authorities of Bosnia and Herzegovina and the key political stakeholders to stop obstructionism and work constructively at the level of state institutions ([Read more](#))

### **Monitoring of Serbia: significant progress, but some key issues to be solved (16.12.2011)**

“Serbia has made significant progress in many areas and is heading towards the full completion of its commitments. However some key issues remain unsolved or incomplete, or were not completely implemented: reform of the justice system, the fight against corruption, independent media and the rights of minorities,” Davit Harutyunyan (Armenia, EDG), co-rapporteur on the honouring of obligations and commitments by Serbia, stressed on 15 December at a meeting of the Monitoring Committee in Paris ([Read more](#))

### **PACE Committee condemns enforced population transfers (13.12.2011)**

In a draft resolution adopted on 13 December 2011 at a meeting in Paris, PACE Legal Affairs Committee condemns any form of enforced population transfer in Europe and elsewhere as a human rights violation and invites all Council of Europe member states to do so ([Read more](#))



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

### **A. Country work**

#### **The increasing repression in Belarus is worrying (19.12.2011)**

One year has passed since the fraudulent presidential election in Belarus declared Lukashenka as the winner. What came after was an increasing and unacceptable repression, said today the Council of Europe Commissioner for Human Rights in an article published by the weekly [New Europe](#). Thousands of people took part in the protest demonstrations in Minsk in the evening of the election day on 19 December 2010. They were met with indiscriminate and disproportionate use of force by the police, and no less than 700 demonstrators were arrested. Most of them were sentenced in summary trials to fines or administrative arrests for five to fifteen days ([Read more](#)).

#### **Slovakia: “Segregation and anti-Gypsyism at the core of Roma exclusion” (20.12.2011)**

“Concrete action to counter anti-Gypsyism and discrimination against Roma must be given priority by the authorities of Slovakia” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, releasing on 20 December 2011 his report following a visit to Slovakia carried out from 26 to 27 September 2011, which focuses on the protection of the human rights of Roma and persons with disabilities. Racist and anti-Roma discourse is still common among mainstream politicians in Slovakia, as well as in the broadcasting and print media. “The Slovak authorities should increase their efforts to prevent the spreading of such prejudices, including by promoting self-regulation within political parties and the media and implementing more thoroughly the relevant criminal provisions.” ([Read more](#) | [Read the report](#))

### **B. Thematic work**

#### **Public service media needed to strengthen pluralism (06.12.2011)**

Two major threats to media freedom exist across Europe today. One is the attempt by state authorities to dominate the media market. The other is the trend towards commercialization and monopoly. Both these tendencies undermine freedom of expression – and are good reasons for strengthening public service media, said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his Human Rights Comment published on 6 December 2011. Media pluralism is necessary for the development of informed societies where different voices can be heard ([Read more](#)).

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

### **European NPM Project: 7<sup>th</sup> NPM Thematic workshop: Roles and Competences for doctors associated with the European NPM Project (14-15.12.2011)**

Co-organised with the medical experts from the Independent Medical Advisory Panel (IMAP) and hosted by the Office of the Human Rights Defender of Poland (the NPM of Poland) within the framework of the European NPM Project, this 7th thematic workshop for the attention of medical professionals / doctors working in association with each of the NPMs of the European NPM Network, brought those experts together with SPT, CPT and medical colleagues from the Independent Medical Advisory Panel. The workshop included two training days for doctors. The first day was used to concentrate on the competences of those doctors who provide forensic and healthcare support for detainees in all situations of detention, except psychiatric institutions. The second day focused on a series of discussions about the basic techniques of monitoring i.e. information gathering, access and co-operation, ill-treatment, material conditions, staffing, means restraint in isolation, legal safeguards and complaints, and their application in the medical context. For the third time, a small number of members of Russian Public Monitoring Committees of places of detention (PMCs) attended as observers ([Program](#) | [Participants](#) | [Briefing and outline papers](#))