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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

## 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**

**[Creangă v. Romania](#) ([link](#) to the judgment in French) (no. 29226/03) (Importance 1) – 23 February 2012 – Two violations of Article 5 § 1 – (i) Lack of legal basis in domestic law for the detention of a police officer for one period of detention; (ii) unlawful placement of a police officer in pre-trial detention – No violation of Article 5 § 1 – Lawful deprivation of liberty of the applicant for one period of detention**

The applicant was a police officer. On 16 July 2003, he was questioned by a military prosecutor about thefts of petroleum. According to him, he was then told that a warrant had been issued for his temporary pre-trial detention for a period of three days. The applicant submitted that his detention on 16 July 2003 and his placement in pre-trial detention on 25 July 2003 had been unlawful.

*Deprivation of liberty from 9 a.m. to 10 p.m. on 16 July 2003*

The Court noted that the applicant had been summoned to appear before a military prosecutor in the context of a criminal investigation. At noon the prosecutor had informed him that criminal proceedings had been opened against him. From that moment, the prosecutor had had sufficiently strong suspicions to justify depriving the applicant of his liberty for the purpose of the investigation and that Romanian law provided for the measures to be taken in that regard. However, the prosecutor had decided only at a very late stage to place him in pre-trial detention. Accordingly, the applicant’s deprivation of liberty on 16 July 2003, at least from noon to 10 p.m., had had no basis in domestic law and had thus breached Article 5 § 1.

*Pre-trial detention from 10 p.m. on 16 July 2003 to 10 p.m. on 18 July 2003*

The Court observed that the suspicions against the applicant had been based on facts and evidence in the case file suggesting that he could have committed the offences in question. The Court therefore considered that the deprivation of liberty had been justified and that there had been no violation of Article 5 § 1.

#### *Placement in pre-trial detention from 25 July 2003*

In its [Chamber judgment](#) the Court had found that an application to have a decision quashed had been neither accessible nor foreseeable for the applicant. Reiterating that it was essential for the conditions for deprivation of liberty under domestic law to meet the standard of “lawfulness” set by the Convention, the Court agreed entirely with the conclusions of the [Chamber judgment of 15 June 2010](#) and held that there had been a violation of Article 5 § 1.

#### Article 41 (just satisfaction)

The Court held that Romania was to pay the applicant EUR 8,000 in respect of non-pecuniary damage and EUR 500 in respect of costs and expenses. Judges Bratza, Costa, Garlicki, Gyulumyan, Myjer, Hirvelä, Malinverni, Vučinić and Raimondi expressed concurring opinions.

#### **[Hirsi Jamaa and Others v. Italy](#) (link to the judgment in French) (no. 27765/09) (Importance 1) – 23 February 2012 – Jurisdiction under Article 1 – A vessel sailing on the high seas is subject to the exclusive jurisdiction of the State of the flag it is flying – Two violations of Article 3 – Risk of ill-treatment in case of deportation to Libya, Somalia or Eritrea – Violation of Article 4 of Protocol No. 4 – Collective expulsion carried out outside a member State’s national territory – Violation of Article 13 – Lack of an effective remedy**

The applicants, 11 Somalia and 13 Eritrean nationals, were part of a group of about two hundred individuals who left Libya aboard three vessels with the aim of reaching the Italian coast. In May 2009, when the boats were within the maritime search and rescue region under the responsibility of Malta, they were intercepted by Italian Customs and Coastguard vessels. The passengers were transferred to the Italian military vessels and taken to Tripoli, where they were handed over to the Libyan authorities. The applicants submitted that the decision of the Italian authorities to send them back to Libya had exposed them to the risk of ill-treatment there, as well as to the risk of ill-treatment if they were sent back to their countries of origin. They also complained that they had been subjected to collective expulsion (prohibited by Article 4 of Protocol No. 4), and that they had had no effective remedy in Italy against the alleged violations of Article 3 and of Article 4 of Protocol No. 4.

The following organisations were authorised to intervene as third parties: the Office of the United Nations High Commissioner for Refugees; the Office of the United Nations High Commissioner for Human Rights; the non-governmental organisations Aire Center, Amnesty International and International Federation for Human Rights (FIDH); the non-governmental organisation Human Rights Watch; and the Columbia Law School Human Rights Clinic.

#### The question of jurisdiction under Article 1

The Court reiterated the principle of international law, enshrined in the Italian Navigation Code, stating that a vessel sailing on the high seas was subject to the exclusive jurisdiction of the State of the flag it was flying. Accordingly, the events giving rise to the alleged violations had fallen within Italy’s jurisdiction within the meaning of Article 1.

#### Article 3

##### *Risk of ill-treatment in Libya*

The Court noted that the disturbing conclusions of numerous organisations regarding the treatment of clandestine immigrants were corroborated by the [report of the Committee for the Prevention of Torture of 2010](#). Irregular migrants and asylum seekers, between whom no distinction was made, had been systematically arrested and detained in conditions described as inhuman by observers, who reported cases of torture among others. The Italian Government had maintained that Libya was a safe destination for migrants and that Libya complied with its international commitments as regards asylum and the protection of refugees. The Court observed that the existence of domestic laws and the ratification of international treaties guaranteeing respect for fundamental rights were not in themselves sufficient to ensure adequate protection against the risk of ill-treatment where reliable sources had reported practices contrary to the principles of the Convention. Furthermore, Italy could not evade its responsibility under the Convention by referring to its subsequent obligations arising out of bilateral agreements with Libya. The Court also reiterated the obligations on States arising out of international refugee law, including the “non-refoulement principle” also enshrined in the Charter of Fundamental Rights of the European Union. The Court thus concluded that there had been a violation of Article 3.

### *Risk of ill-treatment in the applicants' countries of origin*

All the information in the Court's possession showed *prima facie* that there was widespread insecurity in Somalia and in Eritrea. The applicants could therefore arguably claim that their repatriation would breach Article 3. The Court observed that Libya had not ratified the Geneva Convention and noted the absence of any form of asylum and protection procedure for refugees in the country. The Court concluded that when the applicants were transferred to Libya, the Italian authorities had known or should have known that there were insufficient guarantees protecting them from the risk of being arbitrarily returned to their countries of origin. That transfer accordingly violated Article 3.

### Article 4 of Protocol No.4

**The Court was required, for the first time, to examine whether Article 4 of Protocol No. 4 applied to a case involving the removal of aliens to a third State carried out outside national territory. The Court observed that neither the text nor the *travaux préparatoires* of the Convention precluded the extraterritorial application of that provision.** The notion of expulsion, like the concept of "jurisdiction", was clearly principally territorial. Where, however, the Court found that a State had, exceptionally, exercised its jurisdiction outside its national territory, **it could accept that the exercise of extraterritorial jurisdiction by that State had taken the form of collective expulsion.** It concluded that the complaint was admissible.

The Court observed that, to date, the [Čonka v. Belgium](#) case was the only one in which it had found a violation of Article 4 of Protocol No. 4. In the present case **the transfer of the applicants to Libya had been carried out without any examination of each individual situation. No identification procedure had been carried out. The Court concluded that the removal of the applicants had been of a collective nature**, in breach of Article 4 of Protocol No. 4.

### Article 13 taken in conjunction with Article 3 and with Article 4 of Protocol No.4

The applicants alleged that they had been given no information by the Italian military personnel, who had led them to believe that they were being taken to Italy. That version of events, though disputed by the Government, was corroborated by a large number of witness statements gathered by the UNHCR, the CPT and Human Rights Watch. Moreover, even if a remedy under the criminal law against the military personnel on board the ship were accessible in practice, this did not satisfy the criterion of suspensive effect. The Court thus concluded that there had been a violation of Article 13 taken in conjunction with Article 3 and Article 4 of Protocol No. 4.

### Article 41 (just satisfaction)

The Court held that Italy was to pay each applicant EUR 15,000 in respect of non-pecuniary damage and EUR 1,575.74 to the applicants jointly in respect of costs and expenses. Judge Pinto de Albuquerque has expressed a concurring opinion.

## • Right to life

**[Eremiášová and Pechová v. the Czech Republic](#) (no. 23944/04) (Importance 2) – 14 February 2012 – Two violations of Article 2 (substantive and procedural) – (i) Domestic authorities' failure to take reasonable measures to protect an arrested and detained person from harming himself; (ii) lack of an effective investigation**

V.P, partner of the first applicant and son of the second applicant, was arrested in June 2002. Once in the police station, while he was not wearing hand-cuffs, he suddenly jumped, head first, through a closed window into the police yard. He was taken to hospital and died the next morning. The applicants complained that the police officers had not taken adequate steps to protect the life of their partner and son. They also alleged that the ensuing investigation into the incident had not been effective or independent.

### Article 2 (substantive)

The Court observed that the obligation to protect the health and well-being of people in detention included the need to take reasonable measures to protect them from harming themselves. While it would be excessive to expect authorities to put bars on every police station window, the police officers should nonetheless have taken more care to minimize the risk of V.P. jumping. The Court therefore held that there had been a violation of Article 2.

### Article 2 (procedural)

The Court concluded that the investigating authorities had relied almost automatically on the records and statements of the police officers from the station where the incident had occurred without initiating further relevant inquiries. In addition, although the applicants had ultimately been associated with the

investigation, they had repeatedly, and for no apparent reason, been denied access to the file. The Court also noted that all entities which had conducted the investigation into V.P.'s death had depended – at the time of the facts – on the Minister of the Interior. Consequently, there had been a violation of Article 2 on account of the authorities not having carried out an effective investigation into V.P.'s death.

Article 41 (just satisfaction)

The Court held that the Czech Republic was to pay each applicant EUR 10,000 in respect of non-pecuniary damage and EUR 2,000, jointly, for costs and expenses.

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

**Valyayev v. Russia (no. 22150/04) (Importance 3) – 14 February 2012 – Two violations of Article 3 (substantive and procedural) – (i) Torture of a detainee by police officers; (ii) Lack of an effective investigation**

The applicant is currently serving a 20-year prison sentence. According to his submissions, when in pre-trial custody, he was handcuffed with a canvas bag put over his head, taken by the police in a minibus to a forest where officers, for up to one hour, repeatedly kicked, punched and tried to strangle him as well as hit his heels with a wooden baton in order to make him confess to a murder. He complained in particular of having been tortured by the police and maintained that the ensuing investigation into his allegations was inadequate.

Article 3 (substantive)

The Court observed that the forensic report had established abrasions on the applicant's abdomen and wrists and had indicated that these injuries dated back to a point in time when he had been in detention. Neither the authorities conducting the inquiry nor the Government had explained the origin of these injuries. The Government had further not contested the authenticity of the letter by a co-detainee which confirmed the applicant's account of his beatings. Given the duration and the brutality of the beatings, as well as of the purpose of the ill-treatment, the Court is persuaded that the accumulation of the acts of physical violence inflicted on the applicant amounted to torture with meaning of Article 3. There had accordingly been a violation of Article 3.

Article 3 (investigation)

The applicant had complained to the prosecutor's office without delay after his release. His detailed and consistent allegations had placed the authorities under an obligation to conduct an effective investigation. The Court found it striking that the prosecutor's office, after commissioning the forensic examination, had not waited for the report, and had then decided to dispense with criminal proceedings without taking it into account. Even more alarming was the fact that after its receipt the prosecutor's office had not included it in the inquiry file and had not informed the applicant of its content. Neither the Government nor the authorities acting in the domestic proceedings had offered any explanation for that omission. Moreover, instructions by the regional prosecutor's office on additional investigative steps to be taken had not been followed by the prosecutor's office in charge. There had accordingly been a violation of Article 3 also in that respect.

Article 41 (just satisfaction)

The Court held that Russia was to pay the applicant EUR 35,000 in respect of non-pecuniary damage.

**G. v. France (no. 27244/09) (Importance 2) – 23 February 2012 – No violation of Article 6 – Domestic authorities' justified decision to consider the applicant fit to stand trial – Violation of Article 3 – Domestic authorities' failure to place a person suffering from a mental illness in an establishment specially designed for that purpose**

The applicant suffers from a chronic schizophrenic-type psychiatric disorder and is currently being held in a Marseilles hospital. In May 2005 he was imprisoned after he caused damage in a psychiatric hospital. When he was placed in a cell with another inmate, a fire broke out in the cell. His fellow inmate died four months later from his injuries. The applicant complained of the conditions of his appearance before the Assize Court and the Assize Court of Appeal. He submitted that it was necessary to look beyond the medical reports which, contrary to the evidence, had considered him to be fit to stand trial. He alleged that his placement under judicial investigation and appearance before the Assize Court in spite of his psychiatric disorder had been incompatible with the requirements of a fair trial. He further alleged that he had not received appropriate treatment although his mental disorder had called for proper treatment in a psychiatric hospital. He argued that his return to prison each time that his condition improved had amounted to inhuman and degrading treatment.



### Article 6 § 1

The Court first observed that, before each hearing, a report had been drawn up concerning the applicant, according to which his condition was compatible with his appearance before the Assize Court. It was also clear from the minutes of the hearings that the applicant had been capable of grasping the nature of the trial. The Presidents of both courts had questioned the accused and he had replied. Lastly, the Court noted that the applicant had been represented by experienced lawyers who were able to assist him and ensure that he understood the significance of the trial. Accordingly, the Court held that there had been no violation of Article 6 § 1 as a result of the applicant's trial.

### Article 3

The Court referred to its judgment of 20 January 2009 in [Sławomir Musiał v. Poland \(no. 28300/06\)](#) in which it had held that the placement of prisoners suffering from severe, chronic mental disorders, including schizophrenia, in establishments not suitable for incarceration of the mentally ill raised a serious issue under the Convention. The Court noted that the seriousness of the applicant's condition was not disputed and that he had suffered several relapses, as demonstrated by his compulsory admission to hospital on numerous occasions. Referring to [Council of Europe Recommendation Rec\(2006\)2](#), the Court took the view that the applicant's continued detention over a four-year period had made it more difficult to provide him with the medical treatment his condition required and had subjected him to hardship exceeding the unavoidable level of suffering inherent in detention. Accordingly, the Court held that the applicant had been subjected to inhuman and degrading treatment in breach of Article 3.

### Article 41 (just satisfaction)

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

### **Savin v. Ukraine (no. 34725/08) (Importance 2) – 16 February 2012 – Two violations of Article 3 (substantive and procedural) – (i) Torture of a witness by a police officer; (ii) Lack of an effective investigation – Violation of Article 5 § 1 – Unlawful detention**

In the evening of 18 October 1999, the applicant was summoned as a witness. At the police station, an officer tied his hands behind his back and punched him all over his body. The applicant complained that his ill-treatment in police custody amounted to torture and that the ensuing investigation into his allegation was neither independent nor effective. He also alleged that his detention was unlawful and that the authorities failed to investigate this allegation.

### Article 3 (substantive)

It was not in dispute between the parties that the applicant had been ill-treated by the police officer in October 1999. In assessing the treatment to which the applicant was subjected during his two-day police custody in October 1999, the Court therefore refers, first of all, to the findings of the domestic investigation which established that a police officer had tied the applicant's hands behind his back and had subjected him to extensive beating to the head and other parts of his body. The domestic authorities also established that the aim of the aforementioned ill-treatment had been to coerce the applicant into confessing to a criminal offence. In 2002 the applicant was recognised as falling into the third category of disability (the mildest) on account of the residual effects of the head injury and post-traumatic encephalopathy. From 2004 onwards his condition was classified as a disability of the second category (more serious), as the post-traumatic encephalopathy had worsened. The Court attaches weight to the forensic medical experts' findings according to which the applicant's disability was a direct result of the ill-treatment in question. Those findings were sufficient for the Court to conclude that he had been tortured, in violation of Article 3.

### Article 3 (procedural)

The Court observed that the investigation into the applicant's allegation of torture had lasted for more than ten years, during which investigators had repeatedly refused to institute criminal proceedings against the police six times, all those decisions later being quashed by higher-level prosecution authorities. The police officer, having been found guilty, had faced no criminal liability or sanctions. Accordingly there had been a violation of Article 3 in that respect as well.

### Article 5 § 1

As established by the domestic investigation, the applicant's detention had been based partly on a knowingly false administrative offence report, and had partly been unrecorded. There had accordingly been a violation of Article 5 § 1.

### Article 41 (just satisfaction)

The Court held that Ukraine was to pay the applicant EUR 40,000 in respect of non-pecuniary damage, EUR 1,800 in respect of pecuniary damage and EUR 2,550 in respect of costs and expenses.

- **Right to a fair trial**

**Arras and Others v. Italy (no. 17972/07) (Importance 2) – 14 February 2012 – Violation of Article 6 § 1 – Unjustified retroactive legislative interference determining the outcome of pending proceedings between private individuals**

The applicants were all pensioners and former employees of the Banco Di Napoli, a banking group which was originally public and was later privatized. In 1993 a number of former employees entered into a dispute with the Banco di Napoli about the application of certain provisions of a new legislation (1992) which they claimed were being widely interpreted. The bank had attempted to suppress the system of “perequazione aziendale”, which resulted in less substantial pensions, also in respect of persons who were already retired. A law (no.243/04) was then enacted, whereby retired employees of the Banco di Napoli could no longer benefit from the system of perequazione aziendale, effective retroactively from 1992. The applicants alleged that they had been subject to a legislative interference pending their proceedings.

The problem raised in the applicants’ case was fundamentally that of a fair trial, and the Court considered that State’s responsibility had been engaged both in its legislative capacity, as affecting the judicial outcome of the dispute, and in its capacity as a judicial authority where the right to a fair trial was violated, including in private law cases between private individuals. The Court reiterated that only compelling reasons of general interest could justify the interference by the legislature with the administration of justice. While the harmonization of the pension system could be accepted as a reason of some general interest, it was not compelling enough to overcome the dangers inherent in the use of retrospective legislation. In the absence of such a reason, capable of justifying the legislative interference which applied retroactively and determined the outcome of the pending proceedings between private individuals, the Court concluded that there had been a violation of Article 6 § 1.

Under Article 41, the Court held that Italy was to pay each of the applicants up to EUR 30,000 in respect of pecuniary and non-pecuniary damage, and jointly to the applicants EUR 19,000 in respect of cost and expenses.

**Tourisme d'affaires v. France (no. 17814/10) (Importance 3) – 16 February 2012 – No violation of Article 6 § 1 – In finding that the ground of appeal set forth by the applicant raised a new issue and was inadmissible, the Court of Cassation had not committed a manifest error of assessment, nor had it placed excessive restrictions on the applicant company’s right of access to a court**

The applicant, “*Tourisme d'affaires*”, is a limited-liability company established under French law. It alleged that its right to a fair hearing had been infringed as a result of the fact that the Court of Cassation had wrongly ruled that a decisive ground of appeal, set forth by the applicant, raised a new issue and was therefore inadmissible.

While the right to a fair hearing implied that the claims and observations of the parties had to be heard and duly examined by the competent court, the Court reiterated that it was not its task, in exercising its power of review, to take the place of the domestic courts, to whom it fell to assess the facts and apply the domestic law. The Court considered that, in the circumstances of the case and despite its brief reasoning, the Court of Cassation had not erred manifestly in finding that the ground of appeal submitted by the applicant raised a new issue and was therefore inadmissible. In the Court’s view, it was apparent from the Court of Cassation judgment that the ground of appeal in question had been studied in the context of an overall examination of the legal issues raised by the applicant company and that the Court of Cassation had conducted an effective assessment of the case file, referring expressly to the Court of Appeal judgment and the applicant’s submissions. Consequently, the Court held that, in finding that the ground of appeal in question raised a new issue and was therefore inadmissible, the Court of Cassation had not committed a manifest error of assessment, nor had it placed excessive restrictions on the applicant company’s right of access to a court.

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

**Karrer v. Romania (no. 16965/10) (Importance 2) – 21 February 2012 – Violation of Article 8 – Domestic authorities’ failure to conduct an in-depth analysis with a view to assessing a child’s best interests and to give the applicant the opportunity to present his case in an expeditious manner**

In April 2004, the first applicant married his wife, a Romanian citizen, in Salzburg, Austria. In February 2006, their daughter, Alexandra, the second applicant, was born. In February 2008, Alexandra’s mother filed for divorce in Austria. In September 2008, both Alexandra and her mother left for Romania while the child custody proceedings were still pending in Austria. Alexandra’s father was not informed about their departure even though at the time both spouses had joint custody over their daughter. Both applicants complained about the court proceedings in Romania and, more specifically, that they had not been conducted quickly enough, and that Alexandra’s father had not been heard by the courts.

The Court observed that the Romanian courts’ assessment of the child’s best interests had been based on an expired restraining order, which had been issued in Austria in February 2008 for a period of three months and which had not been renewed. In addition, the Salzburg District Court judgment of November 2008, awarding sole custody to the applicant, had been set aside on the sole ground that it had been delivered after Alexandra’s mother had left for Romania with the child. Furthermore, in assessing the child’s best interests, the Romanian courts had not referred to the child’s current family situation or to other elements of a psychological, emotional, material or medical nature. Apparently, no attempt had been made to analyse the implications of Alexandra’s possible return to Austria. Finally, the Court recalled that matters related to the reunification of children with their parents had to be handled swiftly, as the passage of time could have irremediable consequences on the relationship. In that connection, even if the Court were to accept that the six-week time limit set forth under The Hague Convention was not to be interpreted strictly; it found that that time limit had been largely exceeded in the proceedings before the Romanian courts. Those proceedings had lasted 11 months in all and the Romanian Government had not given any satisfactory explanation for that delay. There had, therefore, been a violation of Article 8.

Under Article 41, the Court held that Romania was to pay the applicant EUR 10,000 in respect of non-pecuniary damage and EUR 160 for costs and expenses.

**Trosin v. Ukraine (no. 39758/05) (Importance 2) – 23 February 2012 – Violation of Article 8 – Unjustified restrictions imposed on the frequency of family visits and the number of persons admitted per visit to a prisoner – Violation of Article 34 – Unlawful monitoring of a prisoner’s correspondence with the Court**

Following his conviction, the applicant was allowed to see his relatives no more than once every six months. Subsequently, following an amendment of the Enforcement of Sentences Code, he was granted family visits once every three months. The applicant complained about those restrictions and about the prison authorities monitoring his correspondence with the Court.

Article 8

The Court underlined that it was an essential part of a detainee’s right to respect for family life that the authorities enabled him to maintain contact with his close family. As regards the question of whether the interference had been necessary in a democratic society, the Court noted that the relevant provisions of Ukrainian law imposed automatic restrictions on the frequency and length of visits for all life prisoners. The provisions did not offer any flexibility. In the applicant’s case, the Court did not discern any specific circumstances which would have made it necessary to limit the meetings with his family to once every six months for a period of more than four years. There had accordingly been a violation of Article 8.

Article 34

The parties disagreed as to whether the prison officers had reviewed the applicant’s letters addressed to the Court. However, the fact that the first page of one of his letters to the Court had been stamped by the detention facility, and that for some time his submissions to the Court had been accompanied by letters from the facility summarizing the nature of his correspondence, suggested that at least part of his communication with the Court had been subject to monitoring by officers of the detention facility. His right to free and confidential communication with the Court had thus not been ensured. Ukraine had accordingly failed to comply with its obligations under Article 34.

Article 41 (just satisfaction)

The Court held that Ukraine was to pay the applicant EUR 5,000 in respect of non-pecuniary damage.

**A.M.M. v. Romania (no. 2151/10) (Importance 2) – 14 February 2012 – Violation of Article 8 – Domestic courts’ failure to struck a fair balance between a child’s right to have his interests safeguarded in paternity proceedings and the right of his putative father not to take part in the proceedings or to refuse to undergo a paternity test**

The applicant was registered in his birth certificate as having a father of unknown identity. In June 2001 his mother brought paternity proceedings against Z., claiming that the child had been conceived following intercourse with him. She relied on a handwritten statement signed by Z. in which he recognised paternity of the child and promised to pay maintenance. The applicant complained that the paternity proceedings had not satisfied the reasonable time requirement and that there had been an infringement of his right to private and family life.

The Court observed that the guardianship office responsible for protecting the child’s interests had not taken part in the proceedings as it was required to do, and that neither the applicant nor his mother had at any point been represented by a lawyer. It was those shortcomings that had led the Bucharest Court of Appeal to allow the applicant’s mother’s first appeal. However, the same shortcomings had been repeated when the case was re-examined on appeal. No representative of the guardianship office had appeared at any of the hearings before the County Court. The court had not taken any procedural steps to secure the appearance of a representative, nor had it taken action on the child’s behalf to compensate for that absence by appointing a lawyer or securing the participation of a member of the public prosecutor’s office. Likewise, no steps had been taken by the authorities to contact the witnesses proposed by the child’s mother, after the first attempt had failed. Having regard to the child’s best interests and the rules requiring the guardianship office or a representative of the public prosecutor’s office to participate in paternity proceedings, the Court considered that it had been up to the authorities to act on behalf of the child whose paternity was to be established in order to compensate for the difficulties facing his mother and avoid his being left without protection. The Court also observed that domestic law did not provide for any measure by which a third party could be required to undergo a paternity test. The Court held that there had been a violation of Article 8.

Under Article 41, the Court held that Romania was to pay the applicant EUR 7,000 in respect of non-pecuniary damage.

**Romet v. the Netherlands (no. 7094/06) (Importance 2) – 14 February 2012 – Violation of Article 8 – Domestic authorities’ failure to prevent the abuse, by unknown third parties, of a stolen driving license**

On 3 November 1995 the applicant reported to the police that his driving license had been stolen in September of that year. In March 1997, the authorities issued him with a new driving license, shortly after he applied for it. During the intervening period, the relevant authorities registered 1,737 motor vehicles in the applicant’s name. As a consequence, he was prosecuted on many occasions for various offences and accidents related to the cars and required to pay vehicle tax on them. He was also fined and detained for failure to comply with administrative orders which were the result of offences not committed by him. He lost his welfare benefits too, as the authorities found that his financial means were ample given the large number of cars registered in his name. The applicant complained about the failure to invalidate his driving license as soon as it was reported missing and that this had made it possible for others to abuse his identity.

The Court observed that the failure to invalidate the applicant’s driving license as soon as he reported it missing, which made abuse of his identity by other people possible, was an “interference” with his private life which fell within the scope of Article 8. The authorities had invalidated the applicant’s driving license only one year and four months after he reported it had been stolen. Consequently, the authorities had not acted swiftly to deprive the driving license of its usefulness as an identity document. Neither had they satisfied the Court that they could not have done so immediately after the applicant had reported his driving license missing. Accordingly, there had been a violation of Article 8.

Under Article 41, the Court held that the Netherlands was to pay the applicant EUR 9,000 in respect of non-pecuniary damage.

- **Freedom of expression**

**Tuşalp v. Turkey (no. 32131/08) (Importance 2) – 21 February 2012 – Violation of Article 10 – Domestic court’s failure to establish convincingly any pressing need for putting a Prime Minister’s personality rights above the applicant’s right to freedom of expression**

The applicant is a journalist-columnist who published two articles in the daily newspaper *Birgün*, which were critical of Prime Minister Recep Tayyip Erdoğan. The Prime Minister brought civil proceedings for

compensation against the applicant and his publishing company in respect of both articles. The applicant complained about the civil courts ordering him to pay damages.

As regards the question of whether the interference had been necessary in a democratic society, the Court noted that the articles had concerned the applicant's comments on current events and issues such as the allegedly illegal conduct of high-ranking politicians and the Prime Minister's alleged aggressive response to a number of events. There was no doubt that those were important matters in a democratic society of which the public had a legitimate interest in being informed and which fell within the scope of political debate. The Court also underlined that the limits of acceptable criticism were wider for a politician than for a private individual. It was true that the applicant had used a satirical style to convey his strong criticism. In that context, the Court underlined that the protection of Article 10 was applicable not only to information or ideas that were favourably received but also to those which offended, shocked or disturbed. In that light, the Court found that the Turkish courts had failed to establish convincingly any pressing social need for putting the Prime Minister's personality rights above the applicant's rights and the general interest in promoting the freedom of the press where issues of public interest were concerned. The judgments against the applicant had been disproportionate to the legitimate aim pursued. There had accordingly been a violation of Article 10.

Under Article 41, the Court held that Turkey was to pay the applicant EUR 5,000 in respect of non-pecuniary damage.

## 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 14 Feb. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 16 Feb. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 21 Feb. 2012: [here](#)
- Press release by the Registrar concerning the Chamber judgments issued on 23 Feb. 2012: [here](#)

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

<b>State</b>	<b>Date</b>	<b>Case Title and Importance of the case</b>	<b>Conclusion</b>	<b>Key Words</b>	<b>Link to the case</b>
Albania	14 Feb. 2012	Bushati and Others (no. 6397/04) Imp. 2	Just satisfaction	Just satisfaction in respect of the judgment of <a href="#">8 March 2010</a>	<a href="#">Link</a>
Azerbaijan	21 Feb. 2012	Abil (no. 16511/06) Imp. 2	Violation of Art. 3 of Prot. 1	Arbitrary cancellation of the applicant's registration as a parliamentary elections candidate	<a href="#">Link</a>
Azerbaijan	21 Feb. 2012	Khanhuseyn Aliyev (no. 19554/06) Imp. 2	Idem.	Idem.	<a href="#">Link</a>
Lithuania	14 Feb. 2012	D.D. (no. 13469/06) Imp. 2	No violation of Art. 5 § 1 Violation of Art. 5 § 4  Violation of Art. 6 § 1	Lawful placement of the applicant in a social care home Hindrance to the applicant's right to be released from the social Domestic authorities' failure to release the applicant from the social care come the social care home (where a person capable of expressing a view, despite having been deprived of legal capacity, is deprived of his liberty at the request of his guardian, he must be accorded an opportunity of contesting that confinement before a court, with separate legal representation) Unfairness of guardianship	<a href="#">Link</a>

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

Moldova	14 Feb. 2012	Hadji (nos. 32844/07 and 41378/07) Imp. 3	Violation of Art. 3	proceedings Poor conditions of detention	<a href="#">Link</a>
Moldova	21 Feb. 2012	Buzilo (no. 52643/07) Imp. 2	Violation of Art. 3	Ill-treatment in police custody	<a href="#">Link</a>
Montenegro	21 Feb. 2012	Boucke (no. 26945/06) Imp. 2	Violation of Art. 6 § 1	Domestic authorities' failure to enforce a judgment in the applicant's favour	<a href="#">Link</a>
Poland	21 Feb. 2012	Gąsior (no. 34472/07) Imp. 2	No violation of Art. 10	Justified conviction of the applicant to publish an apology for having written letters with a very pejorative connotation about former Prosecutor and deputy	<a href="#">Link</a>
Poland	21 Feb. 2012	Ruprecht (no. 39912/06) Imp. 3	Violation of Art. 5 § 3	Excessive length of detention (seven years and eleven months)	<a href="#">Link</a>
Romania	21 Feb. 2012	Antonescu (no. 31029/05) Imp. 3	No violation of Art. 10	Justified conviction of the applicant for having published letters impugning the honor of a former Minister of Culture and President of the National Association for Theater Professional	<a href="#">Link</a>
Romania	21 Feb. 2012	S.C. Bartolo Prod Com S.R.L. and Botomei (no. 16294/03) Imp. 3	Violation of Art. 6 § 1	Domestic authorities' unlawful refusal to renew an operating authorisation to sell food on commercial premises belonging to the applicant company	<a href="#">Link</a>
Russia	14 Feb. 2012	Shumkova (no. 9296/06) Imp. 3	Two violations of Art. 2	Domestic authorities' failure comply with the positive obligation to protect life on account of the failure to display due vigilance as regards the availability of a blade to the applicant's son in prison and the insufficient aid provided by the prison officers on the night of his fatal suicide attempt, the Court finds that the State has failed to comply with the positive obligation to protect life; lack of an effective investigation	<a href="#">Link</a>
Russia	14 Feb. 2012	Tkachevy (no. 35430/05) Imp. 3	Violation of Art. 1 of Prot. 1	Unlawful expropriation of the applicant's building	<a href="#">Link</a>
Russia	14 Feb. 2012	Volodarskiy (no. 45202/04) Imp. 3	No violation of Art. 3	Lack of sufficient evidence to conclude that the applicant had been tortured in police custody	<a href="#">Link</a>
Ukraine	16 Feb. 2012	Belyaev and Digtyar (nos. 16984/04 and 9947/05) Imp. 2	Violation of Art. 3 (both applicants) Violation of Art. 8	Poor conditions of detention in Sumy SIZO Domestic authorities' infringement of the applicants' right to respect for correspondence during their pre-conviction detention (second applicant)	<a href="#">Link</a>
Ukraine	16 Feb. 2012	Kontsevych (no. 9089/04) Imp. 3	Violation of Art. 6 § 1 Violation of Art. 1 of Prot.1 Violation of Art. 8	Domestic authorities' failure to enforce judgments by which the applicant and her four sons' eviction from her apartment had been found unlawful	<a href="#">Link</a>
Ukraine	16 Feb. 2012	Yatsenko (no. 75345/01) Imp. 3	Violation of Art. 3 (procedural)	Lack of an effective investigation in respect of the applicant's alleged ill-treatment	<a href="#">Link</a>
Ukraine	21 Feb. 2012	Klishyn (no. 30671/04) Imp. 3	Two violation of Art. 3 (substantive and procedural) Violation of Art. 5 § 1 Violation of Art. 5 § 5	Ill-treatment by State agents and lack of an effective investigation  Unlawful arrest and detention Lack of adequate compensation in respect of unlawful detention	<a href="#">Link</a>

United Kingdom	14 Feb. 2012	Hardy & Maile (no.31965/07) Imp.2	No violation of Art.8	Domestic authorities' proper assessment of marine risks and dissemination of relevant information about the construction and operation of two liquefied natural gas terminals	<a href="#">Link</a>
United Kingdom	14 Feb. 2012	B. (no.36571/06) Imp.2	No violation of Art. 14 read together with Article 1 of Prot. 1	Reasoned and justified lack of difference of treatment between people placed in a different situation	<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>
Bulgaria	14 Feb. 2012	Dimitar Ivanov (no. 19418/07) <a href="#">link</a>	Violation of Art. 6 § 1 Violation of Art. 13 in conjunction with Art. 6 § 1 Violation of Art. 2 of Prot. 4	Excessive length (12 years) of criminal proceedings; Unlawful ban on leaving Bulgaria pending the applicant's rehabilitation
Bulgaria	14 Feb. 2012	Puleva and Radeva (no. 36265/05) <a href="#">link</a>	Violation of Art. 6 § 1 Violation of Art. 1 of Prot.1	Domestic authorities' failure to enforce a final judgment in the applicants' favour
Poland	14 Feb. 2012	Gałazka (no. 18661/09) <a href="#">link</a>	Violation of Art. 5 § 3	Excessive length of pre-trial detention
Romania	14 Feb. 2012	Cioinea (no. 17009/03) <a href="#">link</a>	Violation of Art. 5 §§ 3 and 4	Domestic courts' failure to justify the need to extend the applicant's pre-trial detention
the Czech Republic	16 Feb. 2012	Day s.r.o. and Others (no. 48203/09) <a href="#">link</a>	Violation of Art. 6	Hindrance to the applicants' right to challenge before a court the amount of the settlement they had received following the winding up of their company

### 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>
Bulgaria	21 Feb. 2012	Nikolov and Others (nos. 44184/05, 22250/06 etc.)	<a href="#">Link</a>
Luxembourg	16 Feb. 2012	Guill (no. 14356/08)	<a href="#">Link</a>
Romania	14 Feb. 2012	Opris and Others (nos. 29116/03, 33405/04 etc.)	<a href="#">Link</a>
Turkey	21 Feb. 2012	Braun (no. 10655/07)	<a href="#">Link</a>
Ukraine	16 Feb. 2012	FPK GROSS, OOO (no. 18608/05)	<a href="#">Link</a>
Ukraine	16 Feb. 2012	Mitsevy (no. 25713/06)	<a href="#">Link</a>
Ukraine	23 Feb. 2012	Kravchenko (no. 49122/07)	<a href="#">Link</a>

## B. The decisions on admissibility / inadmissibility / striking out of the list

Those decisions are published with a slight delay of two to three weeks on the Court's Website. Therefore the decisions listed below cover **the period from 30 January to 12 February 2012**. They are aimed at providing the NHRs with potentially useful information on the reasons of the inadmissibility of certain applications addressed to the Court and/or on the friendly settlements reached.

<u>State</u>	<u>Date</u>	<u>Case Title</u>	<u>Alleged violations (Key Words)</u>	<u>Decision</u>
Finland	31 Jan. 2012	J.N. (no 26920/10) <a href="#">link</a>	Alleged violation of Art. 6 § 3 (c) (The applicant's inability to defend himself in person; domestic authorities' failure to appoint a legal counsel)	Struck out of the list (friendly settlement reached)
Poland	31 Jan. 2012	Slonecki (no 33544/09) <a href="#">link</a>	Alleged violation of Art. 5 § 3 (excessive length of detention on remand)	Struck out of the list (unilateral declaration of the Government)
Poland	31 Jan. 2012	Watros (no 13384/10) <a href="#">link</a>	Alleged violation of Art. 8 (domestic authorities' refusal to allow the applicant to leave the prison in order to see his terminally ill father), Art. 3 (degrading treatment of the applicant by prison escort officers during his father's funeral)	Partly struck out of the list (unilateral declaration of the Government concerning claims under Art. 3), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Poland	31 Jan. 2012	A.L. (no 18476/07) <a href="#">link</a>	Alleged violation of Art. 3 (conditions of detention in Wrocław Remand Centre, Wrocław no. 1 Prison and Wołów Prison)	Struck out of the list (friendly settlement reached)
Poland	31 Jan. 2012	Lenartowicz (no 25120/09) <a href="#">link</a>	Alleged violation of Art. 5 § 3 (excessive length of detention on remand)	Struck out of the list (unilateral declaration of the Government)
Poland	31 Jan. 2012	Daszuta (no 41753/09) <a href="#">link</a>	Alleged violation of Art. 6 (excessive length of proceedings), Art. 3 (humiliation of the applicant by administrative authorities), Art. 1 of Prot. 1 (domestic authorities' failure to restore to the applicant disputed property)	Partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning proceedings relating to plots nos. 684/17, 684/7, 684/8, 684/20 and 684/22), partly inadmissible for non-exhaustion of domestic remedies (concerning the remainder of the application)
Poland	31 Jan. 2012	Kisiel (no 51136/09) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Kamińsk Prison and in Białystok Remand Centre from March 2005 to August 2009)	Struck out of the list (friendly settlement reached)
Poland	31 Jan. 2012	Kazimierski (no 11562/10) <a href="#">link</a>	Alleged violation of Art. 5 § 3 (excessive length of detention on remand), Art. 5 § 4 (domestic courts' failure to examine the applicant's appeal). The Court raised <i>ex officio</i> a complaint under Article 8 of the Convention in respect of the monitoring of the applicant's correspondence.	Partly struck out of the list (unilateral declaration of the Government concerning the monitoring of the applicant's correspondence), partly inadmissible as manifestly ill-founded (no violation of the rights and freedoms protected by the Convention concerning the remainder of the application)
Russia	31 Jan. 2012	Kolesova (no 48973/09) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (conviction of the applicant for an offense allegedly committed only because of incitement by an agent provocateur primed by the police)	Struck out of the list (the applicant no longer wished to pursue her application)
Russia	31 Jan. 2012	Knyazkov (no 33797/07) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of pre-trial detention)	Struck out of the list (friendly settlement reached)
Serbia	31 Jan. 2012	Dokic (no 48735/07) <a href="#">link</a>	Alleged violation of Art. 6 § 1 (excessive length of civil proceedings)	Idem.
Serbia	31	Miljkovic and	Alleged violation of Art. 6 § 1	Inadmissible for non-exhaustion of



	Jan. 2012	other application (nos 39992/08; 10497/09 etc.) <a href="#">link</a>	(flagrantly inconsistent case-law of domestic courts concerning the payment of salary increase granted to a certain category of police officers)	domestic remedies
Slovenia	31 Jan. 2012	Smajovic and other applications (nos 5714/10; 6007/10 etc.) <a href="#">link</a>	Alleged violation of Art. 3 (poor conditions of detention in Dob Prison), Articles 3 and 8 (unlawful restrictions on visits, telephone conversations and correspondence), Art. 13 (lack of an effective remedy)	Inadmissible as manifestly ill-founded (no arguable claim for the purpose of the aforementioned provision could have been established)
Turkey	31 Jan. 2012	Dogan (no 45301/04) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (late enforcement of a final judgment in the applicant's favour)	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	31 Jan. 2012	Baser and Others (no 32024/06) <a href="#">link</a>	Alleged violation of Art. 1 of Prot. 1 (domestic authorities' failure to execute a final judgment in the applicants' favour)	Struck out of the list (the applicant no longer wished to pursue his application)
Turkey	31 Jan. 2012	Dogan and Others (no 45302/04) <a href="#">link</a>	Alleged violation of Art. 6 § 1 and Art. 1 of Prot. 1 (late enforcement of a final judgment in the applicants' favour)	Struck out of the list (the applicants no longer wished to pursue their application)
Turkey	31 Jan. 2012	Yildirim (no 41095/08) <a href="#">link</a>	Alleged violation of Articles 5 § 3 and 6 § 1 (excessive length of pre-trial detention and excessive length of criminal proceedings)	Struck out of the list (friendly settlement reached)
Ukraine	31 Jan. 2012	Breslavskaya (no 29964/10) <a href="#">link</a>	Alleged violation of Art. 2 (inhuman and degrading treatment of the applicant; domestic authorities' failure to provide the applicant with adequate medical care in detention)	Inadmissible (the authorities did everything that could have reasonably been expected of them, to safeguard the applicant's health and well-being during her detention)

### 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 20 February 2012: [link](#)
- on 27 February 2012: [link](#)

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

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

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

**Communicated cases published on 20 February 2012 on the Court's Website and selected by the Directorate of Human Rights**

The batch of 20 February 2012 concerns the following States (some cases are however not selected in the table below): Finland, France, Ireland, Italy, Lithuania, Russia, Sweden, the Czech Republic, "the former Yugoslav Republic of Macedonia" and Turkey.

<u>State</u>	<u>Date of Decision to Communicate</u>	<u>Case Title</u>	<u>Key Words of questions submitted to the parties</u>
Finland	02 Feb. 2012	Sipiläinen no 15260/11	Alleged violation of Articles 8 and 13 – Violation of the applicant's right to respect for private and family life, home and correspondence on account of police searches at the applicant's home
France	01 Feb. 2012	S.A.S. no 43835/11	Alleged violation of Articles 3, 10, 11, 14 – Alleged violation of the applicant's right to freedom of religion and of her right to respect for private life on account of the legal ban to wear an attire that conceals one's face in public; alleged discrimination on the basis of religion and sex
Ireland	12 Feb. 2012	E. no 42734/09	Alleged violation of Articles 8 and 14 – Domestic authorities' refusal to award the applicant a lump sum for accommodation on account of the fact that the her child was a non-marital one

**Communicated cases published on 27 February 2012 on the Court's Website and selected by the Directorate of Human Rights**

The batch of 27 February 2012 concerns the following States (some cases are however not selected in the table below): Austria, Finland, France, Hungary, Latvia, Poland, Romania, Russia, Spain, "the former Yugoslav Republic of Macedonia", 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>
France	12 Feb. 2012	Mennesson no 65192/11	Alleged violation of Art. 8 in conjunction with Art. 14 – In particular, the applicants' lack of possibility to register their children born through a surrogate abroad, in France
Russia	08 Feb. 2012	Navalnyy and Yashin no 76204/11	Alleged violation of Art. 3 – In particular, poor conditions of detention at the Kitay-Gorod police station – Alleged violation of Art. 5 § 1 – Unlawful detention – Alleged violation of Art. 6 § 1 – Unfairness of proceedings – Alleged violation of Articles 10 and 11 – Alleged interference with the applicants' right to freedom of assembly on account of their arrest and detention for participating in an opposition rally
Spain	12 Feb. 2012	O.G.S. and D.M.L. nos. 62799/11 and 62808/11	Alleged violation of Articles 2 and 3 – Alleged risk for the applicants to be killed or subjected to ill-treatment if expelled to Colombia

**D. Miscellaneous**

**Multimedia materials (17.02.2012)**

The Court has placed 10 new language versions of its Convention video clip online, bringing to 22 the total number of versions available.

In addition, the film on the Court entitled "The Conscience of Europe" has been re-mastered and is currently available in 24 official languages of the Council of Europe member States. [Press Release; Videos of the Court](#)

## 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"<sup>7</sup> (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 (NHRSS), as independent state authorities, have a key role to play in order to identify possibilities for improvements in the respect for human rights at national level and encourage those to be made. They can in fact bridge the international and the national level, making it easier for national authorities to understand the human rights issues at stake.

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

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

Measures to improve the execution of the judgments of the European Court of Human Rights - Proposals for the implementation of the Interlaken Declaration and Action Plan

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

[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>7</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).

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

### Enhanced procedure

#### *Indicators*

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

#### *Procedure*

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

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

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

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

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

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

*More information:*

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

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

#### Just satisfaction

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

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

## **B. Useful documents and websites on new working methods**

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

[http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases\\_en.asp](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\* during the period under observation (30.01 – 12.02.2012) for this RSIF.

### February 2012

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- 15-17 February

> MONEYVAL participated in the working groups meetings and the second Plenary meeting of FATF-XXIII held under the Italian Presidency ([Read more](#))

- 21-22 February

> FCNM: consultation seminar on the Draft Commentary on Linguistic Rights of Persons Belonging to National Minorities ([Read more](#))

### March 2012

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- 5-9 March

> 38<sup>th</sup> Plenary meeting of MONEYVAL ([Read more](#))

- 19-23 March

> 257<sup>th</sup> session of the European Committee of Social Rights (Strasbourg)

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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)**

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

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

#### **The CPT visited Portugal (09.02.2012)**

A CPT delegation carried out a periodic visit to a ten day visit to Portugal. The visit, which began on 7 February 2012, was the CPT's sixth periodic visit to that country. During the visit, the CPT's delegation reviewed the treatment of persons detained by various police services (Judicial Police, Public Security Police and Republican National Guard). Particular attention was given to the application in practice of safeguards against ill-treatment. The delegation also visited a number of prisons, focusing on various categories of prisoners, notably those in disciplinary segregation and in high security units as well as juveniles and those held on remand. In addition, the delegation examined the treatment and legal safeguards afforded to patients in several psychiatric institutions. It also visited a social care home for children ([read more](#)).

#### **The CPT published report on Germany (22.02.2012)**

The CPT published on 22 February 2012 a report on its most recent visit to Germany, in November/December 2010, together with the response of the German authorities. One of the objectives of the visit was to examine in detail the conditions of detention in units for immigration detainees in prisons. In this connection, the CPT was particularly concerned about the situation found at Munich-Stadelheim Prison, where immigration detainees were subjected to severe restrictions regarding visits and access to the telephone. In their response, the German authorities state that immigration detainees in Munich-Stadelheim Prison have now been granted more frequent access to the telephone and at least one visit of one hour per week. They further informed the Committee that renovation work has been carried out in the unit for male immigration detainees. Particular attention was also paid to the situation of persons subject to preventive detention (Sicherungsverwahrung) at Burg, Freiburg and Schwäbisch Gmünd Prisons. The visits took place at a time when the entire system of preventive detention in Germany was undergoing a major reform, in the light of recent judgments of the European Court of Human Rights. The CPT found that the differentiation between preventive detention and prison sentences (Abstandsgebot) was not always effectively implemented and that there was a shortage of psychological care and therapeutic activities. However, the Committee has welcomed the concrete measures being taken to improve the situation, notably at Freiburg Prison; namely, the transfer of persons in preventive detention to a new building with a less carceral infrastructure, the significant increase of staff as well as newly developed special "motivation programmes" and therapeutic activities ([read more](#)).

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

#### **Conclusions on the implementation of priority recommendations in respect of Bulgaria, Hungary and Norway (21.02.2012)**

ECRI published on 21 February 2012 its conclusions on the implementation of a number of priority recommendations made in its country reports on Bulgaria, Hungary and Norway, which were released in February 2009. Through the new interim follow-up procedure, ECRI seeks to assist Council of Europe member States in fine-tuning their response to the recommendations made in its country reports ([read more](#)).

## **ECRI reports on Iceland, Italy, Latvia, Luxembourg, Montenegro and Ukraine (21.02.2012)**

ECRI published on 21 February 2012 six new reports on the fight against racism, racial discrimination xenophobia, antisemitism and intolerance in Iceland, Italy, Latvia, Luxembourg, Montenegro and Ukraine. ECRI's Chair ad interim, François Sant'Angelo, welcomed positive developments in all these countries, but said that issues of concern remain ([Report on Iceland](#) | [Report on Italy](#) | [Report on Latvia](#) | [Report on Luxembourg](#) | [Report on Montenegro](#) | [Report on Ukraine](#))

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

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

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

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

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

#### **Revised FATF Recommendations published (17.02.2012)**

The FATF revised Recommendations were agreed by FATF members on 15 February and were published on 17 February 2012. The revision of the FATF Recommendations has involved the FATF's members and all the FATF Style Regional Bodies, as well as extensive consultation with the private sector and civil society. The revised standards now fully integrate counter-terrorist financing measures with anti-money laundering controls, introduce new measures to counter the financing of the proliferation of weapons of mass destruction, and they will better address the laundering of the proceeds of corruption and tax crimes. They also strengthen the requirements for higher risk situations and allow countries to take a more targeted risk-based approach ([FATF Recommendations, Interpretative Notes and Glossary](#)).

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

#### **GRETA visited Portugal (20.02.2012)**

A GRETA delegation carried out a country visit to Portugal from 13 to 17 February 2012. The visit was carried out in the context of the first round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (2010-2013). During the visit, the GRETA delegation held consultations with parliament and government members. **In addition, the GRETA delegation met representatives of non-governmental organisations active in combating trafficking in human beings and protecting human rights.** Discussions were also held with the Heads of the offices of the International Organisation for Migration and the International Labour Organisation in Portugal. ([Read more](#)).

#### **GRETA visited Latvia (21.02.2012)**

A GRETA delegation visited Latvia from 14 to 17 February 2012. The visit was carried out in the context of the first round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (2010-2013). During the visit, the GRETA delegation had discussions with Mr Dimitrijs TROFIMOVŠ, National Co-ordinator for Combating Trafficking in Human Beings, as well as with senior officials from the Ministry of the Interior, the Ministry of Justice, the Ministry of Health, the Ministry of Welfare, the Ministry of Foreign Affairs, the Ministry of Education and Science, the Ministry of Economics, the State Police, the Prosecutor's Office and the Court Administration. Further, **a meeting was held with the Ombudsman of Latvia, Mr Juris JANSONŠ.** The delegation also met representatives of Riga City Council. In addition, the GRETA delegation met representatives of non-governmental organisations active in combating trafficking in human beings and protecting human rights, as well as members of the Council of Sworn Advocates ([read more](#)).

#### **GRETA published report on the Republic of Moldova (22.02.2012)**

GRETA published on 22 February 2012 its first evaluation report on the Republic of Moldova. In the report, GRETA notes the steps taken by the Moldovan authorities to combat trafficking in human



beings, through the adoption of specific anti-trafficking legislation and putting into place a National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking. That said, GRETA urges the Moldovan authorities to develop and implement further measures to identify victims and potential victims of trafficking. Particular attention should be paid to groups vulnerable to trafficking, such as women from socially disadvantaged families, women subjected to domestic violence, children left without parental care and children placed in state institutions.

As regards assistance to victims, GRETA considers that there is need for providing additional human and financial resources to the agencies involved in the provision of assistance measures. Further, considering the low number of victims who have received compensation from perpetrators, GRETA urges the Moldovan authorities to set up a State compensation scheme accessible to victims of trafficking. **Prior to drawing up its evaluation report, GRETA held consultations with the relevant authorities and non-governmental and international organisations active in the field of combating trafficking in human beings in the Republic of Moldova** ([Read the report](#)).

## Part V: The inter-governmental work

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

COUNTRY	CONVENTION	RATIF.	SIGN.	DATE
GREECE	The Convention on Mutual Administrative Assistance in Tax Matters ( <a href="#">ETS No. 127</a> )		X	21 Feb. 2012
	The Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters ( <a href="#">CETS No. 208</a> )		X	21 Feb. 2012
ICELAND	The Council of Europe Convention on Action against Trafficking in Human Beings ( <a href="#">ETS No. 197</a> )	X		23 Feb. 2012
INDIA	The Convention on Mutual Administrative Assistance in Tax Matters as amended by its 2010 Protocol ( <a href="#">ETS No. 127</a> )	X		21 Feb. 2012

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

#### Resolution on the implementation of the European Social Charter (Revised) (15.02.2012)

[CM/ResChS\(2012\)1E](#) (Conclusions XIX-3, provisions related to "Labour rights")

[CM/ResChS\(2012\)2E](#) (Conclusions 2012, provisions related to "Labour rights")

#### Resolution establishing Regulations for secondments to the Council of Europe (15.02.2012)

[CM/Res\(2012\)2E](#)

#### Recommendation of the Committee of Ministers to member States on public service media governance (15.02.2012)

[CM/Rec\(2012\)1E](#)

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

#### Meeting of the Ministers' Deputies (15-16.02.2012)

At their 1134th meeting, the Ministers' Deputies adopted the Council of Europe Strategy for the Rights of the Child for 2012-2015. The overarching goal of the Organisation in this area will be to achieve effective implementation of existing children's rights standards. The programme will focus on four strategic objectives: promoting child-friendly services and systems; eliminating all forms of violence against children; guaranteeing the rights of children in vulnerable situations; and promoting child participation ([Strategy for the Rights of the Child](#) | [Action plan](#)).

## Part VI: The parliamentary work

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

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

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

#### **Status of women in the southern Mediterranean: visits by the PACE rapporteur (14.02.2012)**

Fatiha Saïdi (Belgium, SOC), a member of PACE, made a fact-finding visit to Casablanca and Rabat (15-18 February), followed by Tunis (19-21 February), in connection with the preparation of her report on "Gender equality and the status of women in the Council of Europe southern neighbourhood". After participating in a debate on "The different faces of immigration: Moroccans worldwide in the new Constitution" on the occasion of the Casablanca book fair, Ms Saïdi had meetings in Rabat with members of the governments as well as with members of the House of Counsellors and representatives of civil society and human rights bodies. In Tunis meetings were scheduled with National Constituent Assembly Speaker, Ben Jaafar, and other Constituent Assembly members and with Sihem Badi, Minister for Women's Affairs, as well as with representatives of civil society, international organisations, human rights bodies and the media ([read more](#)).

#### **"The European Court of Human Rights closed the door to refoulement at sea", said the Chair of PACE Migration Committee (23.02.2012)**

"The European Court of Human Rights has delivered [on 23 February 2012] a landmark judgment which clarifies member States' obligations regarding interception at sea," said Giacomo Santini, the Chair of the Committee on Migration of the PACE. "[The Hirsi and Others v. Italy](#) judgment unambiguously upholds the right of persons intercepted at sea not to be pushed back and to request asylum," he added. "In this way, the Court has closed the door to any state wanting purely and simply to push back those intercepted at sea." ([read more](#)).

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

### ➤ Countries

#### **Andorra: “Remaining gaps in human rights protection should be filled” (17.02.2012)**

“The Andorran authorities intend to respect their obligations to ensure human rights protection in the country. However, further efforts are needed, for example to prevent domestic violence, protect against discrimination, and promote national independent monitoring of human rights standards”, said the Council of Europe Commissioner for human rights, Thomas Hammarberg, at the end of a two-day visit to the country ([read more](#)).

#### **Comments on the Turkish Bill on judicial reform (20.02.2012)**

Commissioner Hammarberg published on 20 February 2012 his comments relating to a judicial reform package presented to the Turkish Parliament in January 2012. These comments focus exclusively on the draft amendments contained in the reform package and are based on two recent reports the Commissioner published on freedom of expression and on the administration of justice in Turkey ([Read the comments](#)).

#### **Human rights of children and minorities in Bulgaria need better protection (22.02.2012)**

“The conditions of children in institutions and the protection of the rights of minorities remain issues of concern in Bulgaria. While the authorities have now adopted strategies and action plans to address these problems, it is crucial that these are implemented with strong determination” said the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, publishing his observations addressed to the government of Bulgaria ([Read the observations](#) | [Read the comments of the Bulgarian authorities](#)).

#### **Ukraine’s judiciary needs more independence (23.02.2012)**

“Systemic deficiencies in the functioning of the Ukrainian judicial system seriously hinder the enjoyment of human rights. The authorities should take resolute steps to better address these problems”, said Thomas Hammarberg, upon publishing a report based on the findings of his visit to Ukraine from 19 to 26 November 2011. The Commissioner recommended simplifying the overall organisation of the judiciary and clarifying fully the respective roles and jurisdiction of different levels in the court system, in particular at the cassation level. Concrete measures are also needed to increase transparency of the judicial system and make it more open to public scrutiny ([Read the report](#) | [Read the letter addressed to the Prime Minister of the Autonomous Republic of Crimea](#), Anatolii Mohyliov)

#### **Switzerland: Political leaders should stress that xenophobic propaganda is unacceptable (23.02.2012)**

“More determined efforts are needed to combat tendencies of racism and xenophobia in Swiss society” stated the Council of Europe Commissioner for Human Rights at the end of a four-day visit to Switzerland during which he held a series of meetings on issues relating to the protection against all forms of discrimination. “The visit clarified how the Swiss federal political system works for the enhancement of human rights protection”, noted the Commissioner. “However, there are some areas where further vigorous and concerted efforts are necessary in order for Switzerland to fully meet European and international standards” ([Read more](#))

➤ *Themes*

**Post-war justice and reconciliation in the region of former Yugoslavia (16.02.2012)**

Commissioner Hammarberg published on 16 February 2012 his [new thematic webpage](#) concerning post-war justice and reconciliation in the region of former Yugoslavia. It contains the Commissioner's positions on post-war justice and durable peace in the region, based on his country-monitoring reports, viewpoints and human rights comments, links to these documents as well as to other major relevant resources of the Council of Europe and the United Nations.

**Persons with intellectual and psycho-social disabilities must not be deprived of their individual rights (20.02.2012)**

Persons with intellectual and psycho-social disabilities are today routinely placed under a guardianship regime in several European countries - they are deprived of their "legal capacity". In the eyes of the law they are seen as non-persons and their decisions have no legal relevance. This policy violates agreed human rights standards, said Thomas Hammarberg, Council of Europe Commissioner for Human Rights, in his Human Rights Comment published together with an [issue paper](#) on the same topic on 20 February ([Read the comment](#)).

## Part VIII: Miscellaneous

**FRA Seminar “Bringing the Charter to life - opportunities and challenges of putting the EU Charter of Fundamental Rights into practice”, Copenhagen, 15-16 March 2012**

Europe's multi-layered human rights protection - challenges and opportunities for the national implementation of European human rights standards

[Read Speech](#) by Mr Jörg Polakiewicz