

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



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

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*The **selection** of the information contained in this Issue and deemed relevant to NHRSS is made under the responsibility of the Directorate of Human Rights (DG I)*

For any queries, please contact:
eugen.cibotaru@coe.int

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Introduction

This Issue is part of the "Regular Selective Information Flow" (RSIF). Its purpose is to keep the National Human Rights Structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the Directorate of Human Rights carefully selects and tries to present in a user-friendly manner. The information is sent to the Contact Persons in the NHRs who are kindly asked to dispatch it within their offices.

Each Issue covers two weeks and is sent by the Directorate of Human Rights (DG I) to the Contact Persons a fortnight after the end of each observation period. This means that all information contained in any given issue is between two and four weeks old.

The selection of the information included in the Issues is made by the Directorate of Human Rights. It is based on what is deemed relevant to the work of the NHRs (including Ombudsman Institutions, National Human Rights Commissions and Institutes, Anti-discrimination Bodies). A particular effort is made to render the selection as targeted and short as possible.

Readers are expressly encouraged to give any feed-back that may allow for the improvement of the format and the contents of this tool.

The preparation of the RSIF is funded jointly by the Directorate of Human Rights (Directorate General of Human Rights and Rule of Law - DG I) and the Directorate of Human Rights and Anti-Discrimination (Directorate of Democracy - DG II). It is entrusted to Mr Thibaut Fleury, Ph.D, Associate Professor at Versailles University (France).

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

CATAN AND OTHERS V. MOLDOVA AND RUSSIA (nos. 43370/04, 8252/05, 18454/06) – Importance 1 – 19 October 2012 – No violation of Article 2 of Protocol No. 1 in respect of Moldova – The forced closure of Moldovan/Romanian language schools in Transdnistria do not fall within Moldova’s jurisdiction – Violation of Article 2 of Protocol No. 1 in respect of Russia – The forced closure of Moldovan/Romanian language schools in Transdnistria fell within Russia’s jurisdiction, given that the separatist regime could not survive without Russia’s assistance

The applicants are children and parents from the Moldovan community in Transdnistria. They complained about the effects of a language policy adopted by the separatist regime. Those measures included the forcible eviction of pupils and teachers from Moldovan/Romanian-language schools as well as forcing the schools to close down and reopen in different premises.

The Court found that the separatist regime could not survive without Russia’s continued military, economic and political support and that the closure of the schools therefore fell within Russia’s jurisdiction under the Convention. In respect of the Republic of Moldova, the Court noted that it had not only refrained from supporting the regime but had made considerable efforts to support the applicants themselves by paying for the rent and refurbishment of the new school premises as well as for all equipment, teachers’ salaries and transport costs. Therefore, there had been a violation of Article 2 of Protocol No. 1 in respect of Russia alone.

Under Article 41 (just satisfaction), the Court held that Russia was to pay each applicant EUR 6,000 in respect of non-pecuniary damage and EUR 50,000 for costs and expenses to all the applicants, jointly.

Judges Tulkens, Vajić, Berro-Lefèvre, Bianku, Poalelungi and Keller expressed a joint partly

dissenting opinion. Judge Kovler also expressed a partly dissenting opinion.

VISTINS AND PEREPJOLKINS V. LATVIA (no. 71243/01) – Importance 1 – 25 October 2012 – Violation of Article 1 of Protocol No. 1 – Extremely low compensation for expropriated lands

The case concerned the expropriation of land in the 1990s in connection with the enlargement of the Free Port of Riga. The expropriation was based on a special law derogating from the normal rules of expropriation. In application of those rules, domestic authorities paid to the applicants, respectively, EUR 850 and EUR 13,500 for their plots of lands, when the Real Estate Valuation Centre of the State Land Authority calculated that the total cadastral value of their lands amounted to EUR 5,900,000.

The Court found that the difference between the current value of the expropriated plots for land-tax purposes and the compensation awarded was very disproportionate and therefore that Latvia had not struck a fair balance between the public interest and the applicants' fundamental rights. There had therefore been a violation of Article 1 of Protocol No. 1.

The Court reserved its decision concerning the application of Article 41 (just satisfaction).

Judges Bratza, Garlicki, Lorenzen, Tsotsoria and Pardalos expressed a joint partly dissenting opinion, which is annexed to the judgment

- **Right to life**

NIHAYET ARICI AND OTHERS V. TURKEY (IN FRENCH ONLY) (nos. 26604/04 and 16855/05) – Importance 2 – 23 October 2012 – Violation of Article 2 (substantive and procedural) – (i) Deaths attributable to domestic armed forces, and (ii) lack of an effective investigation in that respect – Application of Article 41 (just satisfaction) – Invitation to the State to conclude the investigation and to compensate the applicants

The case concerned the deaths of the applicants' relatives, two Turkish villagers who were found dead near the village of Bozyamaç, close to the border with Iraq. The applicants complained that their relatives had been arrested and killed by members of the armed forces. They further alleged that the investigation carried out by the domestic authorities had been inadequate with regard to the circumstances surrounding the arrest and death of their relatives.

Article 2 (substantive)

Basing its findings on various items of evidence submitted by the parties, and in particular on the witness statements by members of the armed forces, the Court observed that the death of the applicants' relatives were attributable to the Turkish armed forces stationed in the area at the time. There had therefore been a violation of Article 2 in its substantive limbs.

Article 2 (procedural)

The Court observed in particular that the public prosecutor, on being informed of the discovery of the bodies by the villagers, had not taken the trouble to go to the scene to gather evidence, but had left it to a local authority to transport the bodies to another village for the autopsy. Likewise, the public prosecutor had not ordered ballistics tests on the spent cartridges and live round of ammunition found by the villagers at the scene, nor had he considered it necessary to seize the search report drawn up by the soldiers during the final search of one of the applicants' relatives' home. Furthermore, one of key witnesses had not been questioned. The Court also noted that numerous statements from armed forces personnel were missing from the case file or were illegible, while other members of the armed forces had still not been questioned. Consequently, the Court considered that the investigation carried out by the authorities had not been sufficiently thorough or effective and that there had been a breach of Article 2 in respect of the investigation.

Article 41 (just satisfaction)

The Court did not make any award by way of just satisfaction or award a sum in respect of costs and expenses. **However, it held, for the first time, that domestic authorities must conclude the preliminary investigation without delay and take the appropriate action regarding the compensation to be awarded to the applicants.**

- **Right to liberty and security**

ROSSI V. FRANCE ([IN FRENCH ONLY](#)) (no. 60468/08) – Importance 3 – 18 October 2012 – No violation of Article 5 § 3 – Justified pre-trial detention for more than four years given the complexity of the case and the applicant’s conduct

The case concerned the pre-trial detention, for more than four years, of a suspect in the course of an investigation into eleven armed robberies.

The Court considered that the prolonged period during which the applicant had been held in pre-trial detention had been justified by the need to conduct numerous investigative acts and the risks that he might exert pressure on witnesses, abscond or reoffend. The Court considered that the length of detention had been due to the complexity of the case and, in part, to the conduct of the applicant, who had made numerous requests for investigative acts and applications for release. It reiterated that the right of an accused in detention to have his case examined with particular expedition must not unduly hinder the efforts of the judicial authorities to carry out their tasks with proper care. Therefore, there had been no violation of Article 5 § 3.

- **Right to a fair trial**

SUZER AND EKSEN HOLDING A.S. V. TURKEY ([IN FRENCH ONLY](#)) (no. 6334/05) – Importance 2 – 23 October 2012 – Violation of Article 6 § 1 – Domestic authorities’ failure to enforce a judgment against the State – Violation of Article 1 of Protocol No. 1 – Deprivation of property resulting from domestic authorities’ failure to enforce administrative court’s judgments

The case concerned the compulsory transfer of a bank’s savings deposits to an insurance fund following audit reports, which had identified management failings. The national authorities subsequently refused to enforce the final judgments in the bank’s favour, which set aside, from the outset, all the administrative measures resulting in the dissolution of the bank. The applicants complained of the domestic authorities’ failure to enforce the series of judgments in their favour. They also alleged that the transfer of the bank to the Fund, a move that had had no legal basis after the setting-aside of the measure taken for that purpose, amounted to a breach of their right to property.

Article 6 § 1

The Court stressed in particular that it was unacceptable for an applicant who had obtained a final judicial decision against the State to have to bring further actions against the authorities with a view to securing enforcement of the initial obligation. While it was materially and legally impossible to restore the bank to its position prior to the transfer, the administrative courts had held that if enforcement in kind was not possible the applicants should be enabled to establish a new operational bank and be issued with the relevant operating licences for that purpose. There had therefore been a violation of Article 6 § 1.

Article 1 of Protocol No. 1

The Court observed in particular that although the measures taken by the Agency had come within the scope of its powers of oversight of the banking sector in Turkey and its task of ensuring the smooth operation of the latter, there had been a “deprivation of property” in the instant case, if only on account of the taking of the bank’s immovable property. However, the Supreme Court had set aside the measures adopted by the Agency as being unlawful. This decision had had retrospective effect. As the interference had been found, with retrospective effect, to be unlawful, it had been contrary to Article 1 of Protocol No. 1.

Article 41 (Just satisfaction)

The court held that the question of the application of Article 41 of the Convention was not fully ready for decision and reserved it in part.

GLYKANTZI V. GREECE ([IN FRENCH ONLY](#)) (no. 40150/09) – Importance 2 – 30 October 2012 – Violation of Article 6 § 1 in conjunction with Article 13 – Excessive length of civil proceedings and lack of an effective remedy in that respect – Application of Article 46 – Obligation made to domestic authorities to put in place an effective remedy

In 1996, the applicant brought pay-related proceedings against the public hospital where she worked as a cleaner. The case is still pending before the Court of Appeal. The applicant complained about the excessive length of the proceedings.

Article 6 § 1 in conjunction with Article 13

The Court reiterated in particular that it was for the States to organise their judicial system in such a way that they guaranteed to everyone the right to obtain a final decision on disputes concerning civil rights and obligations within a reasonable time, even where, as in the present case, the proceedings were governed by the principle of the parties' initiative.

As to the remedy available to the applicant, the Court noted that an action to establish the State's responsibility for failings in the justice system, as indicated by the Government, had given rise to only one precedent, which was relatively recent and had been dealt with by a first-instance court. The Court pointed out that a remedy had to exist with a sufficient degree of certainty, but that was not the case for the remedy in question. The Court thus found that there had been a violation of Article 13, but did not, however, rule out the possibility that the use of that remedy might lead, once the case law had developed, to a result that satisfied the conditions of Article 13.

Application of Article 46

The Court found that the excessive length of proceedings in the civil courts, and the lack of a remedy by which to complain about this issue, had arisen from failings in the Greek legal system. It requested Greece to put in place, within one year (from the date on which the present judgment becomes final), an effective remedy that could provide appropriate and sufficient redress in such cases of excessively lengthy proceedings. The Court has now adjourned, for that period, its examination of all cases, which solely relate to the length of civil proceedings in the Greek courts. Over 250 applications against Greece in which at least part of the complaints are about the length of judicial proceedings are currently pending before the Court, including 70 that specifically concern civil cases.

Article 41 (just satisfaction)

The Court held that Greece was to pay EUR 10,000 in respect of non-pecuniary damage.

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

P. AND S. V. POLAND (no. 57375/08) – Importance 2 – 30 October 2012 – In particular, Violation of Article 8 – Domestic authorities' failure to provide a teenage girl who was raped an unhindered access to abortion

The case concerned the difficulties encountered by a teenage girl, who had become pregnant as a result of rape, in obtaining access to an abortion, in particular due to the lack of a clear legal framework, procrastination of medical staff and also as a result of harassment.

The Court held in particular that the applicants had been given misleading and contradictory information and had not received objective medical counselling; and that the fact that access to abortion was a subject of heated debate in Poland did not absolve the medical staff from their professional obligations regarding medical secrecy. There had accordingly been an unjustified interference with the applicant's right to respect to private life under Article 8.

Under Article 41 (just satisfaction), the Court held that Poland was to pay up to EUR 30,000 in respect of non-pecuniary damage and EUR 16,000 to both applicants in respect of costs and expenses.

2. Other judgments issued in the period under observation

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

STATE	DATE	CASE TITLE	IMP.	CONCLUSION	KEY WORDS
BULGARIA	23 October 2012	HADZHEV (No. 22373/04)	3	Violation of Articles 8 and 13	Failure of domestic legislation authorising secret surveillance to provide sufficient safeguards against abuse and to authorize the disclosure of any information as to whether a person had been subjected to such surveillance; lack of an effective remedy in that respect
		YOTOVA (IN FRENCH ONLY) (No. 43606/04)	2	Violation of Art. 2 (procedural) Violation of Art. 14 combined with Art. 2	Domestic authorities' failure to conduct an effective investigation into the attempted murder of the applicant Domestic authorities' failure to attempt to establish whether or not the attempted murder of the applicant, a Bulgarian national of Roma origin, had been a racially and ethnically motivated crime
CROATIA	23 October 2012	CAMOVSKI (No. 38280/10)	3	Violation of Art. 6 § 1	Domestic Court's failure to adequately calculate the time-limit when dismissing the applicant's case
	30 October 2012	GRUBIC (No. 5384/11)	3	No violation of Art. 5 § 1	Lawfulness of the applicant's detention
GREECE	30 October 2012	KARPETAS (IN FRENCH ONLY) (No. 6086/10)	3	Violation of Art. 6 § 1	Excessive length of proceedings (ten years and five months)
				No violation of Art. 10	Justified and proportionate conviction of the applicant to pay damages for defamation of a prosecutor and an investigating judge
HUNGARY	23 October 2012	AL-TAYYAR ABDELHAKIM (No. 13058/11) HENDRIN ALI SAID AND ARAS ALI SAID (No. 13457/11)	3	Violation of Art. 5 § 1	Lack of judicial review of the applicants' detention pending the outcome of their asylum claims
ITALY	23 October 2012	IMMOBILIARE PODERE TRIESTE S.R.L. (IN FRENCH ONLY) (No. 19041/04)	3		Just satisfaction
	30 October 2012	GROSSI AND OTHERS (IN FRENCH ONLY) (No. 18791/03)	3		Dismissal of the Government's revision request

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

MOLDOVA	30 October 2012	GHIMP AND OTHERS (No. 32520/09)	2	Violation of Art. 2 (substantive and procedural)	Death of the applicants' relative as a result of a severe beating at a police station; lack of an effective investigation in that respect
POLAND	23 October 2012	JUCHA AND ZAK (No. 19127/06)	3	Violation of Art. 10	Unjustified conviction of the applicants, a journalist and editor-in-chief of a local weekly newspaper, for having published a series of articles criticising the councillor and alleging that he had broken the law
	30 October 2012	GLOWACKI (No. 1608/08) PAWEL PAWLAK (No. 13421/03)	3	Violation of Art. 3 (in both cases) Violation of Art. 6 § 1 (in the first case)	Inhuman and degrading treatment resulting from a "dangerous detainee" regime, involving in particular solitary confinement, humiliating daily strip-searches, excessive restrictions on contact with family and other detainees Excessive length of proceedings (more than 16 years)
ROMANIA	23 October 2012	GHITA (No. 54247/07)	3	Violation of Art. 3 (substantive and procedural)	Ill-treatment by police officers; lack of an effective investigation in that respect
	30 October 2012	ANDRESAN (No. 25783/03)	3	Violation of Art. 3 (substantive and procedural)	Ill-treatment by police officers; lack of an effective investigation in that respect
		ARDELEAN (IN FRENCH ONLY) (No. 28766/04)	3	Violation of Art. 3 Violation of Art. 6 § 1	Poor conditions of detention Excessive length of criminal proceedings (one year, one month, 2 weeks)
		E.M. (IN FRENCH ONLY) (No. 43994/05)	2	Violation of Art. 3	Lack of an effective investigation into the applicant's complaint of domestic violence committed in the presence of her daughter
RUSSIA	23 October 2012	DMITRIY ROZHIN (No. 4265/06)	3	Violation of Art. 3	Poor conditions of detention in remand prison
				No violation of Art. 3	Acceptable conditions of detention at a correctional colony
				Violation of Art. 5 § 1 (a)	Unlawful detention in a correctional colony
		GRIGORYEV (No. 22663/06)	3	Violation of Art. 3 (substantive and procedural) Violation of Art. 6 § 1	Ill-treatment by police officers; lack of an effective investigation in that respect Excessive length of criminal proceedings (over eight years and two months)

RUSSIA (CONTINUED)	23 October 2012 (continued)	PICHUGIN (No. 38623/03)	3	No violation of Art. 5 § 1	Arrest and detention on "reasonable suspicion" that the applicant had committed a criminal offense
				Violation of Art. 5 § 3	Excessive length of proceedings (one year and nine months)
				No violation of Art. 5 § 4	Reasonable length of appeal proceedings
				Two violations of Art. 5 § 4	Domestic authorities' failure to speedily examine the applicant's appeals against detention orders
				Violation of Art. 6 § 1	Unfairness of proceedings
				Violation of Art. 6 §§ 1 and 3 (d)	Unjustified restriction of the applicant's rights to defence
	ZENTSOV AND OTHERS (No. 35297/05)	3	Violation of Art. 3	Poor conditions of detention	
			Violation of Art. 5 § 3	Excessive length of pre-trial detention (almost twelve months)	
	30 October 2012	ABLYAZOV (No. 22867/05)	3	Violation of Art. 3 (substantive and procedural)	Ill-treatment in police custody; lack of an effective investigation in that respect
				VALERIY LOPATA (No. 19936/04)	3
			Violation of Art. 6 §§ 1 and 3 (c)		
SLOVAKIA	23 October 2012	MAJCHRAK (No. 21463/08)	3	Violation of Art. 6 § 1	Domestic court's miscalculation of the start date of the time-limit for the applicant to lodge his complaint
		ZBOROVSKY (No. 14325/08)	2	Violation of Art. 6 § 1	Domestic Constitutional Court's refusal to examine the relevant part of the applicants' constitutional complaint on the ground that it had been introduced more than two months after the contested rulings
SLOVENIA	18 October 2012	HARTMAN (No. 42236/05)	3	Violation of Articles 6 § 1 and 13	Excessive length of proceedings (eight years and six months); lack of an effective remedy in that respect
	25 October 2012	STEFANCIC (No. 18027/05)	3	No violation of Art. 6 § 1 read in conjunction with Art. 6 § 3 (d)	Domestic court's decision not based on the sole or decisive evidence against the applicant; effective procedural safeguards capable of counterbalancing the absence of some witnesses at trial

THE CZECH REPUBLIC	18 October 2012	BURES (No. 37679/08)	2	Two violations of Art. 3 (substantive and procedural)	Ill-treatment in an psychiatric hospital's sobering-up centre (in particular, strapping of the applicant to the bed for several hours); lack of an effective investigation in that respect
	25 October 2012	BUISHVILI (No. 30241/11)	2	Violation of Art. 5 § 4	Lack of judicial proceedings in which the applicant's release could have been ordered

3. Repetitive cases

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

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

STATE	DATE	CASE TITLE	CONCLUSION	KEY WORDS
BULGARIA	30 October 2012	TONOV AND OTHERS (No. 48704/07)	Violation of Art. 1 of Prot. No. 1	Arbitrary deprivation of the applicants' property

4. Length of proceedings cases

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

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

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

STATE	DATE	CASE TITLE
MONTENEGRO	23 October 2012	NOVOVIC (No. 13210/05)
PORTUGAL	23 October 2012	PIMENTEL LOURENCO (IN FRENCH ONLY) (No. 9223/10)
		PINHEIRO SILVESTRE (IN FRENCH ONLY) (No. 47031/10)
		PINHO LOPES (IN FRENCH ONLY) (No. 32020/10)
ROMANIA	23 October 2012	TODIRICA AND OTHERS (IN FRENCH ONLY) (No. 21504/03)
SLOVENIA	18 October 2012	BARISIC (No. 32600/05)
		BJELIC (No. 50719/06)
		DANIJEL PECNIK (No. 44135/06)

SLOVENIA (CONTINUED)	18 October 2012 (continued)	RASIEWICZ (No. 40445/06)
		STOJC (No. 20159/06)
		ZABOVNIK (Nos. 17596/06 AND 17608/06)

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

Those decisions are published with a slight delay of two to three weeks on the Court's website. Therefore the decisions listed below cover **the period from 17 to 31 October 2012**. They are aimed at providing the NHRs with potentially useful information on the reasons of the inadmissibility of certain applications addressed to the Court and/or on the friendly settlements reached.

STATE	DATE	CASE TITLE	ALLEGED VIOLATIONS (KEY WORDS)	DECISION
BELGIUM	23 October 2012	A.A. (IN FRENCH ONLY) (No. 3483/11)	Art. 5 § 1 f) (unlawful detention), Art. 5 § 4 (lack of access to court)	Struck out of the list (the applicant no longer wished to pursue his application)
BULGARIA	31 October 2012	M.G. (IN FRENCH ONLY) (No. 59297/12)	Art. 3 (risk of ill-treatment in case of deportation to Russia of a Russian citizen from Chechnya)	Adjourned
FRANCE	23 October 2012	A.Q. (IN FRENCH ONLY) (No. 22646/11)	Articles 2 and 3 (risk of ill-treatment in case of deportation to Albania)	Struck out of the list (the applicant no longer wished to pursue her application)
		GAUER AND OTHERS (IN FRENCH ONLY) (No. 61521/08)	In particular, Articles 3, 6, 8 and 12 (unconsented sterilization of disabled persons)	Inadmissible (non-respect of the six-months requirement)
		CHIHA (IN FRENCH ONLY) (No. 57639/08)	Art. 14 read in conjunction with Art. 1 of Prot. No. 1 (domestic authorities' refusal to revalorise his retirement pension)	Struck out of the list (the applicant no longer wished to pursue his application)
POLAND	23 October 2012	CIOK (No. 498/10)	Art. 5 (applicant's inability to apply for conditional release in Poland, whereas he could have made such an application if he had not been transferred from Belgium to Poland to serve his sentence), Art. 6 (violation of the <i>in dubio pro reo</i> principle), Art. 7 (aggravation of the applicant's situation due to his return to Poland to continue his sentence)	Partly inadmissible as manifestly ill-founded (concerning claim under Art. 5), partly incompatible <i>ratione materiae</i> with the provisions of the Convention (concerning claim under Articles 6 and 7)
		GIZA (No. 1997/11)		
		LAWNICZAK (No. 22857/07)	Art. 3 (overcrowding in detention), Art. 5 § 1 (unlawful and arbitrary detention), Articles 5 § 2 and 6 § 3 (a) and (b) (charges against the applicant not clearly specified), Art. 5 §§ 3, 4, 5 (excessive length of detention, lack of effective judicial control of the decisions relating to the applicant's detention, applicant's inability to claim compensation for unjustified detention), Art. 6 § 2 (breach of the principle of the presumption of innocence), Art. 9 (prison authorities' repeated refusal to allow the applicant to participate in Catholic services held in prison)	Partly inadmissible for non-respect of the six-months requirements (concerning claim under Art. 3), partly inadmissible as manifestly ill-founded (concerning claim under Articles 5 §§ 1, 2, 3, 4, 5, 6 § 3 (a) and (b), and 9)

POLAND (CONTINUED)	23 October 2012 (continued)	PUSTELNIK (No. 37775/09)	Art. 3 (poor conditions of detention)	Inadmissible for non-exhaustion of domestic remedies
THE CZECH REPUBLIC	23 October 2012	PEKARNY A CUKRARNY KLATOVY, A.S. (Nos. 49845/10 AND 4 OTHER)	Articles 6 § 1 and 13 (interim measures issued in proceedings in which one of the applicant had not been a party and could not raise any arguments against it), Art. 1 of Prot. No. 1 (interference of domestic measures with the applicant's peaceful enjoyment of possessions)	Struck out of the list (unilateral declaration of the Government)
		KOMUNITA RIMSKE UNIE RADU SV. VORSILY V PRAZE (No. 4807/09)	Articles 6 § 1 and 1 of Prot. No. 1 (unfairness of proceedings, denial of access to the Constitutional Court, domestic courts' failure to protection the applicant's right to property)	
THE UNITED KINGDOM	23 October 2012	DUNN (No. 62793/10)	Art. 6 § 1 (unjustified impediment of the applicant's access to the House of Lords by the requirement that the court from which he sought to appeal should certify in his favour)	Inadmissible as manifestly ill-founded
		KRAJISNIK (No. 6017/11)	Art. 5 §§ 1 (a) and 4 (delegation of all decisions regarding the applicant's early release to the President of the ICTY; continued detention); Art. 14 read in conjunction with Art. 5 § 4 (treatment of the applicant in less favourable conditions compared to others imprisoned in the UK)	Inadmissible as manifestly ill-founded
		WILSON (No. 10601/09)	Art. 8 (in particular, unduly lenient nature of the suspended sentence given to the applicant's husband for having assaulted her at home, domestic court's failure to make the full facts of the assault public), Art. 13 (lack of an effective remedy in those respects)	Inadmissible as manifestly ill-founded
UKRAINE	23 October 2012	APALKOVA (No. 20440/06)	Articles 6 § 1 and 13 (excessive length of criminal proceedings and lack of an effective remedy in that regard)	Struck out of the list (friendly settlement reached)
		MUSIYENKO (No. 11335/06)	Lengthy non-enforcement of judgment in the applicant's favour (no article mentioned)	Struck out of the list (the applicant no longer wished to pursue his application)

C. The communicated cases

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

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

Please note that the Irish Human Rights Commission (IHRC) issues a monthly table on priority cases before the European Court of Human Rights with a focus on asylum / immigration, data protection,

anti-terrorism / rule of law and disability cases for the attention of the European Group of NHRIs with a view to suggesting possible amicus curiae cases to the members of the Group. Des Hogan from the IHRC can provide you with these tables (dhogan@ihrc.ie).

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
GERMANY	18 October 2012	KARAMAN (No. 17103/10)	Art. 6 § 2 – Breach of the principle of presumption of innocence on account of domestic courts' incriminating statements
ROMANIA	17 October 2012	IELCEAN (No. 76048/11)	Art. 6 § 1 – Unfairness of proceedings on account of the dismissal of the applicant's request; domestic courts' failure to correctly assess the pecuniary damage awarded to the applicant and excessive length of proceedings
		RACHITA (No. 15987/09)	Art. 6 § 1 – Unfairness of hearings on account of domestic courts' failure to properly examine the evidence submitted before them; Articles 1 of Prot. No. 1 and 2 of Prot. No. 4 – Breach of the applicant's property rights and right to freedom of movement in so far as he was unable to use or build on his property
RUSSIA	17 October 2012	GORBULYA (No. 31535/09)	Articles 3, 6 and 8 – Poor conditions of detention
SERBIA	17 October 2012	VELICKOVIC (No. 36158/10)	Articles 6, 14 and 2 of Prot. No. 1 – Administrative rejection of the applicant's request for subspecialisation; subsequent breach of the applicant's right of access to a court
SLOVAKIA	18 October 2012	RINGIER AXEL SPRINGER SLOVAKIA, A.S. (No. 21666/09)	Art. 6 § 1 – Domestic courts' failure to support their judgments in the libel case against the applicant; Art. 10 – Outcome of proceedings based on arbitrary, disproportionate and based on one-side assessment of the fact
		RINGIER AXEL SPRINGER SLOVAKIA, A.S. (No. 37986/09)	Art. 10 – In particular, domestic courts' arbitrarily focus on the protection of the privacy of the claimant in libel proceedings
SPAIN	18 October 2012	ALDEGUER TOMAS (No. 35214/09)	Art. 14 in conjunction with Art. 8 – Discriminatory interpretation of domestic provisions; Art. 14 in conjunction with Art. 1 of Prot. No. 1 – Deprivation of the applicant's pension
THE UNITED KINGDOM	18 October 2012	STOKES (No. 65819/10)	Art. 8 – Applicant's inability to raise her right to respect for her home and family life; Articles 6 and/or 8 – Absence of full disclosure or of a fuller statement of reasons of her eviction
TURKEY	17 October 2012	KNICK (No. 53138/09)	Art. 6 – Excessive length of administrative proceedings; conflicting decisions in cases concerning the same matter; breach of the applicant's right of access to court; Art. 13 – Lack of effective remedy for restitution claims; Art. 1 of Prot. No. 1 – Violation of the applicant's right to peaceful enjoyment of property in that he did not receive any compensation for the loss of his share
		PEKTAS AND OTHERS (No. 58298/10)	Art 2 – In particular, domestic authorities' failure to detect the applicants' son and brother's psychological problems, in any, in recruiting him for military service and thereafter to protect his life
UKRAINE	18 October 2012	SKNAR (No. 42856/09)	Art. 3 – Ill-treatment by police; Art. 5 § 3 – Domestic courts' failure to adduce relevant and sufficient reasons for remanding the applicant in custody and excessive length of detention; Art. 6 § 1 – Unfairness and excessive length of criminal proceedings; Art. 13 – Lack of an effective remedy

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

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

Part II: The execution of the judgments of the Court

Decisions on execution of European Court of Human Rights judgments

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

Part III: General Agenda

The “General Agenda” presents events that either took place or were announced* during the period under observation (17 to 31 October 2012) for this RSIF.

October-November 2012

- 15-19 October:
 - GRETA visit to Spain ([Read more](#))
- 17 October:
 - “Building Europe through Human Rights: Acting Together against Extreme Poverty”, Conference organised by the Council of Europe in Strasbourg ([Programme](#))
- 24 October:
 - 1153rd meeting of the Ministers’ Deputies ([Meeting file](#))
- 26 – 29 October:
 - Observation of the parliamentary elections in Ukraine by PACE delegation ([Read more](#))
- 29 – 30 October:
 - Visit of the Heads of the Committee of Ministers and PACE to Tunisia ([Read more](#))
 - Visit of PACE rapporteur to Kosovo ([Read more](#))
- 31 October – 2 November:
 - Fact-finding visit of PACE rapporteur to “The former Yugoslav Republic of Macedonia” ([Read more](#))

December 2012

- 3-7 December:
 - Session of the European Committee of Social Rights (Strasbourg)

* These are subsequently due to take place.

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

A. European Social Charter (ESC)

Collective complaints (19.10.2012)

The decisions on the merits for Complaints Nos. 65 and 66, both lodged by the complainant trade unions GENOP-DEI and ADEDY against Greece have become public today. These decisions are the first the Committee has taken in this context. Further decisions on social rights restrictions due to the economic crisis in Greece will be taken by the Committee in the framework of the examination of Complaints Nos.76/2012, 77/2012, 78/2012, 79/2012 and 80/2012 ([Collective complaints website](#))

In the case GENOP-DEI and ADEDY v. Greece ([Complaint No. 65/2011](#)) the complainant trade unions allege that the situation in Greece is not in conformity with Article 4 (right to a fair remuneration) of the 1961 Charter and with Article 3 of the Additional Protocol of 1988 (right to take part in the determination and improvement of the working conditions and working environment) ([Read more](#) – [Decision on the merits](#) – [Summary](#))

In the case GENOP-DEI and ADEDY v. Greece ([Complaint No. 66/2011](#)) the complainant trade unions allege that the situation in Greece is not in conformity with Articles 1 (right to work), 4 (right to a fair remuneration), 7 (the right of children and young persons to protection), 10 (right to vocational training), and 12 (right to social security) of the European Social Charter ([Read more](#) – [Decision on the merits](#) – [Summary](#) – [Greek factsheet](#) – [Press file](#))

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

Report on Switzerland (25.10.2012)

CPT has published on 25 October 2012 the [report](#) on its most recent visit to Switzerland, carried out in October 2011, together with the [response](#) of the Swiss Government. Nearly all detained persons met by the CPT's delegation in the Cantons of Bern, Thurgau, Zug and Zurich stated that they had been treated correctly by the police; a few allegations of excessive use of force by the police were received concerning the Canton of Vaud. However, in the Canton of Geneva, a disturbing proportion of the persons with whom the delegation spoke, including some juveniles, complained about physical ill-treatment by the police at the time of, or just after, apprehension. These allegations were often supported by medical evidence. The CPT has recommended that action be taken to combat ill-treatment in the Canton of Geneva, through improved training and reinforcing existing safeguards. In this context, it has also recommended that the traumatic injury reports drawn up upon admission to Champ-Dollon Prison be automatically forwarded to an independent body empowered to conduct investigations. In their response, the Swiss authorities state that the training courses for the Geneva police already include elements on the appropriate use of force, and that internal reporting mechanisms are functioning well and have led to disciplinary measures in a number of cases ([Read more](#)).

CPT examined treatment of foreign nationals during deportation flight from United Kingdom (25.10.2012)

CPT has examined for the first time the treatment of foreign nationals during an operation of deportation by air. The monitoring took place in the context of an ad hoc visit to the United Kingdom from 22 to 24 October and involved the presence of the CPT's delegation on a charter flight between London and Colombo (Sri Lanka) ([Read more](#)).

C. European Committee against Racism and Intolerance (ECRI)

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

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)

First report on fighting corruption in Liechtenstein (31.10.2012)

GRECO has released on 31 October 2012 its first report on Liechtenstein. Liechtenstein is stepping-up its efforts against corruption. In 2010, the country joined GRECO and ratified the United Nations Convention against Corruption. The Principality has appointed specialists to design policies and to investigate effectively the various forms of corruption. These efforts complement those that are on-going in the area of the prevention of money laundering ([Read more](#) – [Read the report](#)).

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

Crown Dependencies to be evaluated by MONEYVAL (18.10.2012)

At their meeting on Wednesday, 10 October 2012, the Committee of Ministers of the Council of Europe, following a request by the United Kingdom, has adopted a resolution agreeing to the participation in MONEYVAL of the Crown Dependencies of Guernsey, Jersey and the Isle of Man with immediate effect ([Decision of the Committee of Ministers](#) – [Committee of Ministers Resolution CM/Res\(2012\)6](#)).

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

Sixth European Anti-Trafficking Day: “We will never win the war against human trafficking if we fail to empower victims” (18.10.2012)

Speaking in Brussels on 18 October 2012, at a conference organised by the Cyprus Presidency and the European Commission to mark the Sixth EU Anti-Trafficking Day, Mr Nicolas Le Coz, GRETA President, declared: “The fight against trafficking in human beings continues to be slowed down by persisting prejudices and misconceptions. There cannot be effective prevention of human trafficking without education, empowerment and anti-discrimination measures.” ([Read more](#)).

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
MALTA	Convention on Mutual Administrative Assistance in Tax Matters, as amended by its 2010 Protocol (ETS No. 127)			26 October 2012
NEW ZEALAND			X	
THE CZECH REPUBLIC				

B. Recommendations and Resolutions adopted by the Committee of Ministers

NATURE OF THE TEXT	TEXT NUMBER	OBJECT	DATE
RESOLUTION	CM/Res(2012)7E	Adjustment of the scale of contributions to the Extraordinary Budget with effect from 1 January 2013	24 October 2012
	CM/Res(2012)8E	Extraordinary Budget relating to buildings expenditure for 2013	
	CM/Res(2012)9E	Pensions Budget for 2013	
	CM/Res(2012)10E	Adjustment of the scale of contributions to the Pension Reserve Fund with effect from 1 January 2013	
	CM/Res(2012)11E	Pension Reserve Fund for 2013	
	CM/Res(2012)12E	Amendment of Article 3, paragraph 1b) of the Statute of the Pension Reserve Fund of the Council of Europe (Resolution Res(2006)1)	
	CM/Res(2012)13E	Adjustment of the scale of contributions to the Budget of the European Youth Foundation with effect from 1 January 2013	
	CM/Res(2012)14E	Budget of the European Youth Foundation for 2013	
	CM/Res(2012)15E	Adjustment of the scale of contributions to the Budget of the European Pharmacopoeia with effect from 1 January 2013	
	CM/Res(2012)16E	Budget of the European Pharmacopoeia for 2013	
	CM/Res(2012)17E	Adjustment of the scale of contributions to the Budget of the Partial Agreement on the Council of Europe Development Bank with effect from 1 January 2013	
	CM/Res(2012)18E	Budget of the Partial Agreement of the Council of Europe Development Bank for 2013	

RESOLUTION	CM/Res(2012)19E	Adjustment of the scale of contributions to the Budget of the Partial Agreement on the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) with effect from 1 January 2013	24 October 2012
	CM/Res(2012)20E	Budget of the Partial Agreement on the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) for 2013	
	CM/Res(2012)21E	Budget of the Partial Agreement on the European Support Fund for the Co-production and Distribution of Creative Cinematographic and Audio-visual Works "Eurimages" for 2013	
	CM/Res(2012)22E	Adjustment of the scale of contributions to the Budget of the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) with effect from 1 January 2013	
	CM/Res(2012)23E	Budget of the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) for 2013	
	CM/Res(2012)24E	Adjustment of the scale of contributions to the Budget of the Partial Agreement on Youth Mobility through the Youth Card with effect from 1 January 2013	
	CM/Res(2012)25E	Budget of the Partial Agreement on Youth Mobility through the Youth Card for 2013	
	CM/Res(2012)26E	Adjustment of the scale of contributions to the Budget of the Enlarged Partial Agreement on the European Centre for Modern Languages (Graz) with effect from 1 January 2013	
	CM/Res(2012)27E	Budget of the Enlarged Partial Agreement on the European Centre for Modern Languages (Graz) for 2013	
	CM/Res(2012)28E	Consolidated financial statements of the Council of Europe for the year ended 31 December 2011	
	CM/Res(2012)29E	Budgetary management accounts of the General Budget of the Council of Europe for the year ended 31 December 2011	
	CM/Res(2012)30E	Budgetary management accounts of the European Pharmacopoeia for the year ended 31 December 2011	
	CM/Res(2012)31E	Budgetary management accounts of the Partial Agreement on the Council of Europe Development Bank for the year ended 31 December 2011	
	CM/Res(2012)32E	Budgetary management accounts of the Partial Agreement on the Cooperation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) for the year ended 31 December 2011	
CM/Res(2012)33E	Budgetary management accounts of the Partial Agreement on the Cooperation Group for the Prevention of, Protection Against, and organisation of Relief in Major Natural and Technological Disasters (EUR-OPA) for the year ended 31 December 2011		

RESOLUTION	CM/Res(2012)34E	Budgetary management accounts of the Enlarged Agreement on the European Commission for Democracy through Law (Venice Commission) for the year ended 31 December 2011	24 October 2012
	CM/Res(2012)35E	Budgetary management accounts of the Partial Agreement on Youth Mobility through the Youth Card for the year ended 31 December 2011	
	CM/Res(2012)36E	Budgetary management accounts of the Enlarged Partial Agreement establishing the European Centre for Modern Languages (Graz) for the year ended 31 December 2011	
	CM/Res(2012)37E	Budgetary management accounts of the Enlarged Agreement on the "Group of States against Corruption – GRECO" for the year ended 31 December 2011	
	CM/Res(2012)38E	Budgetary management accounts of the Enlarged Partial Agreement on Sport (EPAS) for the year ended 31 December 2011	
	CM/Res(2012)39E	Budgetary management accounts of the Enlarged Partial Agreement on Cultural Routes for the year ended 31 December 2011	
	CM/Res(2012)40E	Financial statements and budgetary management accounts of the Partial Agreement establishing the European Centre for Global Interdependence and Solidarity (North-South Centre) for the year ended 31 December 2011	
	CM/Res(2012)41E	Financial statements and budgetary management accounts of the Partial Agreement of the European Support Fund for the Co-production and Distribution of Creative Cinematographic and Audio-visual works "Eurimages" for the year ended 31 December 2011	
RECOMMENDATION	CM/RecChL(2012)5E	Application of the European Charter for Regional or Minority Languages by the Netherlands	24 October 2012
	CM/RecChL(2012)6E	Application of the European Charter for Regional or Minority Languages by Spain	24 October 2012

C. Other news of the Committee of Ministers

Tunisia: Council of Europe call for constitutional reform (30.10.2012)

At the close of their official visit to Tunisia, Edmond Panariti, Chair of the Committee of Ministers of the Council of Europe and Minister for Foreign Affairs of Albania, and Jean-Claude Mignon, President of the Council's Parliamentary Assembly – accompanied by Venice Commission President Gianni Buquicchio – called on Tunisian authorities to push ahead with on-going constitutional reform "so as firmly to establish the foundations of a democratic and pluralistic society in which the rights and freedoms of all individuals are respected." They also called for setting up, through the Constitution, "independent authorities to deal with the essential issues of judicial and media independence" ([Read more](#)).

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

➤ *Countries*

PACE committee head calls on Greek authorities to modify labour law reforms judged illegal (24.10.2012)

The head of a PACE committee has called on the Greek authorities to modify two 2010 reforms to Greek labour law recently judged illegal by the European Committee of Social Rights. Liliane Maury Pasquier (Switzerland, SOC), who chairs PACE's Committee on Social Affairs, Health and Sustainable Development, said the decision to extend to one year the "trial period" during which workers can be dismissed without notice, and the decision to cut the minimum salary for workers under 25 to two-thirds of the national minimum wage, should be reviewed ([Read more – Information on the decisions of the European Committee of Social Rights – PACE Resolution 1884 \[2012\] – PACE Resolution 1824 \[2011\]](#))

Transnistria: PACE co-rapporteurs concerned by the prosecution of Alexander Bejan (24.10.2012)

The two PACE co-rapporteurs for the monitoring of Moldova, Lise Christoffersen (Norway, SOC) and Piotr Wach (Poland, EPP/CD), have expressed their concern at the investigation and prosecution in Transnistria of Alexander Bejan, an 18-year-old high school student, on charges of "threat of a terrorist act" ([Read more](#)).

Ukrainian elections marred by lack of level playing field, said international observers (29.10.2012)

Ukraine's parliamentary elections were characterized by a tilted playing field, the international observers concluded in a statement released today. This was the result, primarily, of the abuse of administrative resources, as well as a lack of transparency in campaign and party financing and of balanced media coverage ([Read more](#)).

PACE Rapporteur: « Democratic interplay in Kosovo improving, but vision and sustained effort needed » (31.10.2012)

"This is my third visit to Kosovo since the adoption of my last report in 2010. My impression is that the democratic interplay in Kosovo is improving over the years, but democracy needs time", said Björn von Sydow (Sweden, SOC), PACE Rapporteur, speaking to the media at the end of a two-day visit to Kosovo ([Read more](#)).

➤ *Themes*

The right of local authorities to be consulted: a core principle of local democracy (17.10.2012)

"Member states must set up robust procedures to enable local and regional authorities to take part in consultation processes", confirmed Sir Alan Meale (United Kingdom, SOC), PACE General Rapporteur on Local and Regional Authorities, in a plenary debate during the 23rd session of the Congress held in Strasbourg on 17 October 2012. He also agreed that "the right of local authorities to

be consulted constitutes one of the core principles of local democracy,” as recalled by the Congress in a recommendation to be adopted on 18 October ([Read more](#)).

How parliaments can protect the independence of public service broadcasting (17.10.2012)

PACE members from Albania, Bosnia and Herzegovina, Croatia, Serbia, Slovenia and "The former Yugoslav Republic of Macedonia" have agreed a number of steps that parliaments can take to ensure the political independence of public service broadcasting in the region, as well as its stable and secure funding ([Read more](#) – [PACE recommendation](#))

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

➤ *Countries*

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

➤ *Themes*

How long must LGBTI persons still wait to live free from prejudice? (17.10.2012)

The lives of millions of lesbian, gay, bisexual, trans and intersex persons are still burdened by widespread prejudice, stigmatisation and in some cases even violence. Many of them are treated as second-class human beings. This situation is unbearable in today's Europe", said the Council of Europe Commissioner for Human Rights, Nils Muižnieks, on the eve of his participation in the ILGA-Europe's Annual Conference "Advancing LGBTI equality in challenging economic times" in Dublin ([Read more](#) – [Conference page](#)).

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

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

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